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Hawai'i Pacific University

LAWS
OF THE
TERRITORY OF HAWAII
PASSED BY THE
TWENTY-FIRST LEGISLATURE

SPECIAL SESSION
1941

Convened on Monday, the Fifteenth Day of September, and
Adjourned Sine Die on Saturday, the First Day of November.

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SPECIAL SESSION 1941

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Clerk.....Ellen D. Smythe, Honolulu, Oahu

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	Gomes, Clement (R).....	Lihue, Kauai

D—Democrat 3

R—Republican 12

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LAWS OF THE TERRITORY OF HAWAII

PASSED BY THE

TWENTY-FIRST LEGISLATURE

SPECIAL SESSION

1941

Title I. GENERAL LAWS.

CHAPTER 2A.

HAWAII DEFENSE ACT.

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[A-1] An Act Declaring a Public Emergency; Providing for the Public Health and Welfare, for the Safety of Persons and Property, and for Disaster Relief During such Emergency; Authorizing the Governor to Exercise Certain Powers Over Persons and Property; Providing for the Emergency Organization of Government and Suspension of Laws; Providing for Certain Government Transactions; Authorizing the Governor to Promulgate Rules and Regulations; Providing Penalties; and Making Appropriations.

WHEREAS, on May 27, 1941, by Proclamation Number 2487, the President of the United States did proclaim an unlimited national emergency; and

WHEREAS, both prior and subsequent thereto, the Congress of the United States has recognized the present national emergency and conferred emergency powers upon the President; and

WHEREAS, in view of the conditions and circumstances so recognized by the President and the Congress to exist, it is required that legislation be enacted, and that the Governor be vested with extraordinary powers, as hereinafter set forth, now therefore

Be it Enacted by the Legislature of the Territory of Hawaii:

[Sec. 45.01.] Section 1. **Findings and declaration of public emergency.** It is hereby declared that a public emergency exists within the Territory of Hawaii which endangers the health, safety, security and welfare of the Territory and its inhabitants;

that the Territory is a strategic military and naval area of the United States and as such has located within it important military and naval works; that large numbers of the armed forces and personnel of the United States, as well as civilian workers upon defense projects have been stationed in the Territory, and that the national defense program has greatly increased the numbers of such armed forces, personnel, and civilian workers upon defense projects; that the Territory, not being self-sufficient, and being located over two thousand miles from the continental United States, and deriving much of its food supplies and other essentials therefrom, is largely dependent upon sea-borne commerce for such food supplies and other essentials; that there is a danger of a curtailment of such commerce; that the storage of facilities in the Territory are inadequate for emergency conditions; that recently there have been marked and rapid advances in the prices of food supplies, as well as other essentials, which prices continue to increase; that by reason of the foregoing, as well as from increased consumption due to the emergency, there is danger of a shortage of food supplies and other essentials; that the President of the United States having proclaimed that the present national emergency requires that the military, naval, air and civilian defenses of the nation be put on the basis of readiness to repel any and all acts or threats of aggression, and having called upon every community to cooperate with the civilian defense agencies of the United States to assure our internal security against foreign directed subversion, to put the community in order for maximum productive effort and minimum of waste and unnecessary frictions, and to mobilize and have ready for instant defensive use all of its physical powers, all of its moral strength, and all of its material resources, the legislature does hereby declare the necessity, in the public interest, of making adequate provision against such shortage of food supplies and other essentials, and against such threatened acts of aggression and subversive activities, and does further declare the necessity of organizing the powers and resources of the Territory and its inhabitants in such manner that prompt and effective action may be taken, as the circumstances develop, to the end that the national defense program may be effectively prosecuted in the Territory, that the officials of the Territory and its several counties may effectively cooperate in such program, that the safety of persons and property may be protected, that the health and welfare of the people may be provided for, that supplies and services essential to the life of the community may be maintained, that relief may be afforded in the event of a disaster, and that public order may be maintained. The necessity in the public interest for the provisions hereinafter enacted is hereby declared as a matter of legislative determination.

[Sec. 45.02.] Section 2. **Declaration of legislative intent.** It is the intent of the legislature to provide for and confer upon the Governor comprehensive powers to deal with the public emergency. This Act shall be liberally construed to effectuate its purpose, provided, that this Act shall not be construed as conferring any power or permitting any action which is inconsistent with the provisions of the Constitution and laws of the United States, but, in so construing the Act, due consideration shall be given to the circumstances as they exist from time to time. This Act shall not be deemed to have been amended by any Act hereafter enacted at the same session of the legislature, unless this Act shall be amended by express reference hereto.

[Sec. 45.03.] Section 3. **Definitions.** When used in this Act, unless the context otherwise requires:

a. "Defense period" means a period declared to be such by the Governor as provided by section 5.

b. The term "person" includes individuals, corporations, partnerships, firms, associations, societies, assemblies, communities, and inhabitants of a district or neighborhood.

c. The term "protective device", without prejudice to any other meaning associated with the word, includes any article or substance used or useful in the protection of persons or property.

d. The term "shelter", without prejudice to any other meaning associated with the word, includes any structure, excavation or other shelter used or useful in the protection of persons or property.

e. The term "essential materials" means such materials as the Governor shall determine to be essential to the health, safety, or welfare of persons or the protection of property, or for the relief of any public disaster, and may include, but is not restricted to, foods, feeds, seeds, tools, building materials, machinery, fire fighting equipment, vehicles, means of communication, fuels, power and light, hospital and medical supplies and equipment, chemicals, and protective devices.

f. The term "Highways" has the meaning of said term as defined by section 2340 of the Revised Laws of Hawaii 1935, and further includes all public rights of way, whether or not included in said definition.

g. The term "public utility" shall have the meaning given that term in section 7940 of the Revised Laws of Hawaii 1935.

h. The terms "hoard", "hoarded" and "hoarding" mean and refer to the withholding of essential materials, by any producer, manufacturer, processor, wholesaler, retailer, dealer, or other person who holds or possesses essential materials other than for

use by himself or his family or dependents, from the market, or from use in his business, for the purpose of unreasonably increasing prices, or whenever not justified by the reasonable requirements of such business as to the amount of such essential materials to be kept on hand or stored for use or sale by such producer, manufacturer, processor, wholesaler, retailer, dealer, or other person, for a reasonable time.

i. The terms “guard” and “warden” refer to the personnel appointed as such, pursuant to the provisions of this Act.

j. The terms “laws” and “ordinances” include rules, regulations and orders prescribed thereunder and having the force and effect of law.

k. The term “shortage” refers to a shortage of essential materials available in the market.

[Sec. 45.04.] Section 4. **General powers of Governor.** Whether or not a defense period has been declared the Governor shall have the following powers:

(1) **Guards and wardens.** To appoint, train, and equip guards and wardens who shall be provided with suitable insignia of their authority, and, in addition to any other persons authorized to exercise the same powers, shall have the following powers: (a) whether or not a defense period has been declared, to serve, throughout the Territory, all processes, orders or notices issued under this Act; (b) during a defense period, to enforce the provisions of this Act, the rules and regulations of the Governor issued under this Act, and such laws and ordinances of the Territory and the several counties thereof as the Governor may specify, and to exercise all of the powers of police officers, including the power, throughout the Territory, to preserve the public peace, to serve and execute warrants, to arrest all persons who attempt to commit or who have committed a public offense, and to prevent and suppress affrays, breaches of the peace, riots and insurrections.

(2) **Other personnel.** To appoint, train, equip, and maintain such agencies, officers, and other persons, in addition to guards and wardens, as he deems necessary to carry out the provisions of this Act or in preparation for a defense period, including not only the creation of special agencies, positions or employments under this Act but also the increase in the personnel of any existing agency or department of the government, territorial or county, or the interchange of personnel, by detail, transfer or otherwise, between the Territory and any county, or any county and the Territory, or between any agencies or departments thereof.

Such personnel may be provided with suitable insignia of authority.

(3) **Delegation of powers.** To delegate to agencies, officers, employees, and other persons, or any of them, created, appointed, or employed under, or engaged in carrying out, the provisions of this Act, or to any government agency, officer or employee, territorial or county, any of his duties or powers under this Act, except the power (a) to declare a defense period or to declare such defense period terminated, (b) to designate a period for education or training as provided by section 6, (c) to make the proclamation provided for by section 10, (d) to prescribe rules or regulations having the force and effect of law, and (e) to make funds available for the purposes of this Act, as provided by section 20.

(4) **Compensation.** To provide for the payment of compensation, or additional compensation, to such persons or for such services and in such amounts as he may deem proper.

(5) **Essential materials.** To enumerate essential materials.

(6) **Supplies, etc.** To purchase, make, produce, construct, install, store, and dispose of as may be suitable, such supplies, materials, devices or improvements (including without prejudice to the generality of the foregoing, essential materials, equipment, storage facilities, camps, shelters, first aid stations and hospital facilities), as are required for carrying out the provisions of this Act, before, during, or in preparation for a defense period; to transport the same into the Territory or from one part of the Territory to another; to take any and all measures whatsoever which may, in his opinion, secure, stimulate or increase similar activities by private or public persons or organizations; and to acquire by condemnation or otherwise such property, or the use and possession of such property, or an interest therein, as may be necessary for public projects instituted or conducted hereunder.

(7) **Charges.** To make charges in such cases and in such amounts as he deems advisable, for any property sold, work performed, services rendered, or facilities furnished by the government under this Act, whenever it is not specifically provided that the same shall be at public expense.

(8) **Hoarding, price fixing, rationing.** To prevent the hoarding, destruction or waste of essential materials, and to proceed in any case of hoarding as provided by section 9. Whenever, in the opinion of the Governor, there is such an actual or threatened shortage of essential materials as has resulted, or might result,

in the exaction of unfair and unreasonable prices therefor, to fix such maximum prices therefor as the Governor may deem fair and reasonable, from time to time, and in such manner as will give effect to the prices prevailing for such essential materials immediately prior to the date upon which, in the opinion of the Governor, who shall be the sole judge thereof, there developed such an actual or threatened shortage, to which shall be added such increase as may be justified by increased costs, taxes, and other maintenance and operating expenses, or required in order to allow a just and reasonable profit; and in so doing, to provide for such classifications, differentiations and adjustments as in the judgment of the Governor are necessary or proper to effectuate the purposes of this Act. Whenever, in the opinion of the Governor, there is an actual or threatened shortage of essential materials, or whenever necessary to prevent such shortage, (a) to ration the same, and in so doing to establish priorities as the public health, safety and welfare may require, and (b) to requisition the same in the manner provided by section 10, whether or not a defense period has been declared, and to dispose of the same as may be suitable.

(9) **Transactions in essential materials.** To investigate, regulate, or prohibit, by means of licenses or otherwise, any transactions in any essential materials when and to the extent necessary in case of an actual or threatened shortage, or necessary to prevent such shortage, or otherwise necessary to carry out the purposes of this Act and to safeguard the public health, safety, or welfare.

(10) **Renting.** To suspend, in whole or in part, any laws or ordinances which prohibit certain types of renting, or which prohibit business or certain types of business.

(11) **Protection of properties.** To require each public utility, or any person owning, controlling, or operating a business affected with a public interest, to protect and safeguard its or his property; and to provide for the protection and safeguarding of any and all public properties, or such other properties as the Governor may deem advisable; provided that, without prejudice to the generality of the foregoing two clauses, such protection and safeguarding may include the regulation or prohibition of public entry thereon, or the permission of such entry upon such terms and conditions as he may prescribe.

(12) **Protective devices, personnel.** To the extent necessary to protect the public health or the safety of persons or property, to guard against damage to essential properties of public utilities or other businesses affected with a public interest, or to prepare

for a defense period, (a) to require that persons provide themselves with adequate protective devices, or to distribute the same at the public expense; (b) to require the installation or provision of adequate protective devices in, or appurtenant to, dwellings, factories and other places of business, office buildings, hotels, hospitals, schools, and theatres and other places where the public congregate, or to provide the same at the public expense; (c) to require that adequate preparations be made for compliance, during a defense period, with any regulations prescribed by the Governor under section 5 (4), including, without prejudice to the generality of the foregoing, the training, or employing, and equipping of a sufficient number of employees to perform the duties necessary for the protection of persons or property and the relief of disaster; (d) to determine the persons responsible for the performance of duties upon, or in connection with, any premises or enterprises, upon consideration of comparative burdens imposed and comparative benefits enjoyed; and (e) for such purposes, to make classifications according to the type and location of premises or structures, the degree of danger, the number, age and sex of persons involved, the type of business or functions carried on, ability to pay, or otherwise.

(13) **Control of traffic.** To regulate or prohibit all traffic on, or the use of, the highways, territorial or county, or to permit such traffic or use upon such terms and conditions as he may prescribe.

(14) **Maintenance of public property.** To provide for the repair, maintenance and reconstruction of any public property, whenever adequate provision therefor is not otherwise made.

(15) **Education and training.** To educate or train the public or any person or persons as to the acts, practices and conduct which might be required of them in a defense period; and to sell, loan, or donate such property as is required for such education or training.

(16) **Pamphlets, etc.** To print and distribute rules and regulations, instructional pamphlets, books, and the like.

(17) **Registration, etc.** To establish, maintain and enforce a system for the compulsory registration and identification of all persons within the Territory so far as practicable and not in contravention of the Constitution and laws of the United States; and in conjunction therewith, to ascertain and record such facts concerning such persons as he may deem necessary.

(18) **Immunization, etc.** To provide for immunization of persons against disease, and for the typing of blood.

(19) **Explosives, etc.** To investigate, regulate, or prohibit the storage, sale, transportation or use of, as well as any transactions in, explosives, firearms and ammunition, or inflammable materials, whenever in his opinion the laws of the Territory do not provide adequate protection to persons or property, and to require the reregistration of firearms.

(20) **Aviation, etc.** To investigate, regulate, or prohibit aviation and allied activities whenever in his opinion the laws of the Territory do not adequately assure the public safety and welfare.

(21) **Obstructions to aerial navigation.** To provide for the marking, by lights or otherwise, of all towers, stacks or other elevated structures which are obstructions to aerial navigation, and to maintain such markings in operation.

(22) **Cooperation, etc.** To cooperate with the armed forces of the United States; to furnish them such information as may be of assistance to them in the prosecution of their duties; to cooperate in the program of any federal, state, municipal or other local agency having to do with civilian defense; and to cooperate with such other organizations or agencies, public or private, and such persons, as the Governor may deem advisable.

(23) **Contributions.** To receive, expend, or use contributions or grants in money or property, or special contributions or grants in money or property for special purposes provided for by this Act, and to establish suitable funds in the treasury for the deposit and expenditure of such moneys. Such contributions or grants are hereby appropriated for the purposes of this Act, or for such special purposes.

(24) **Contracts.** To make such contracts as may be necessary to carry out the provisions of this Act.

(25) **Accounting.** To establish special accounting forms and practices whenever necessary.

[Sec. 45.05.] Section 5. **Declaration of defense period; powers of Governor.** (a) **Proclamations.** Whenever there exists (1) any state of affairs or circumstances arising out of an invasion, attack, insurrection, rebellion, or lawless violence, or any danger or threat thereof, or (2) any state of affairs or circumstances making it advisable to protect the Territory and its inhabitants, of the existence of any of which the Governor shall be the sole judge, the Governor, by proclamation, may declare a defense period to exist. A defense period may be declared for any one or more counties, or a part of a county, and when once

declared shall continue until the Governor, by proclamation, shall declare the defense period at an end. Such proclamations shall be promulgated by publication thereof, or by posting copies of the same in at least ten public places in each county, or part thereof, affected by any such defense period, or, when immediate promulgation is necessary in the opinion of the Governor, who shall be the sole judge thereof, by official announcement thereof by him by means of radio broadcast.

(b) **Powers.** During any defense period the Governor, in addition to any other powers vested in him, shall have the following powers:

(1) **Acts, practices, and conduct.** To require every person to perform such acts as may be necessary for the public health and safety, or for the protection of property; and to require every person to desist from acts, practices or conduct deemed by him to be dangerous to the public health or safety or to property; and for such purposes to classify persons according to their occupations, businesses, or functions, the degree of danger involved, the necessity of such acts or practices, or otherwise as he may deem advisable.

(2) **Duties.** To prescribe duties for any or all persons, or classes of persons, to classify persons according to their relative capacity and fitness, training, occupations, or otherwise as he may deem advisable; and to require any person, or class of persons, to perform such duties as may be necessary for the public health and safety or for the protection of property.

(3) **Public nuisances.** To designate as public nuisances acts, practices, conduct or conditions which are dangerous to the public health or safety or to property, to authorize that such nuisances be summarily abated, and if need be that the property be destroyed, by any warden, guard, police officer, or duly authorized person, and to authorize, without the permission of the owners or occupants, entry on private premises for such purpose.

(4) **Private shelters, etc.** (a) To require the installation or provision of adequate shelters in, or appurtenant to, dwellings, factories and other places of business, office buildings, hotels, hospitals, schools, and theatres and other places where the public congregate; (b) to require the installation or provision, in connection with factories, hotels, hospitals, theatres, schools, and other enterprises, of first aid stations with the necessary equipment, and personnel trained and equipped to perform the duties necessary for the protection of persons and property and the relief of disaster, all of which shall be adequate and sufficient for the respective premises and for persons who may be present

thereon; (c) to determine the persons responsible for the foregoing duties, upon consideration of comparative burdens imposed and comparative benefits enjoyed; and (d) for such purposes, to make classifications according to the type and location of premises or structures, the degree of danger, the number, age and sex of persons involved, the type of business or functions carried on, ability to pay, or otherwise.

(5) **Public shelters, etc.** To establish, maintain, or distribute, at the public expense, protective devices and shelters with the necessary equipment whenever he deems the same advisable.

(6) **First aid stations, etc.** To establish and maintain first aid stations and hospitals, to equip the same, including the necessary transportation equipment, and to provide the necessary personnel.

(7) **Evacuations.** To require and provide for the evacuation of places, areas or districts upon the request of the commander of the military or naval forces of the United States in the Territory, or when, in the opinion of the Governor, the public health or safety makes such action advisable; and for such purposes to make classifications according to types of business, occupations, or functions, the age or sex of persons involved, the type and location of premises or structures, or otherwise.

(8) **Temporary accommodations.** To provide temporary accommodations in camps or otherwise for victims of disasters, persons who have been evacuated, or refugees, until they are suitably re-established; and to provide food and other necessities for such persons.

(9) **Quarantine, immunization, nuisances, etc.** To provide for and require the quarantine or segregation of persons who are infected with any infectious, communicable or other disease dangerous to the public health, or persons who are the source of other contamination, in any case where in his opinion the existing laws are not adequate to assure the public health and safety; to provide for the care and treatment of such persons; to provide for and require compulsory immunization of persons against disease; to provide for the isolation or closing of property which is a source of contamination or is in a dangerous condition in any case where, in his opinion, the existing laws are not adequate to assure the public health and safety; and, when such property is a public nuisance, to provide for the cleansing or repair of such property at the expense of the owner, following as nearly as may be the provisions of section 1311 of the Revised Laws of Hawaii 1935 which are hereby made applicable.

(10) **Disaster relief, etc.** To provide for precautions against disasters and for the relief thereof, including without prejudice to the generality of the foregoing, the detection and warning of danger, preventive measures, the guarding of affected areas or areas which are particularly dangerous, the rescue and evacuation of persons therefrom, the care of the injured, the identification and burial of the dead, and the demolition of unsafe buildings or other structures when necessary to the public health or safety or for the protection of the adjacent property.

(11) **Rehabilitation.** To provide for the rehabilitation of victims of disaster, evacuees or refugees.

(12) **Public utilities.** To regulate public utilities, to provide for continuity of service by public utilities, both publicly and privately owned; and to take over and operate such public utilities if deemed by him necessary to the continuity of the service thereof.

(13) **Public transportation.** To re-route the lines of such public utilities as are engaged in the transportation of persons or property, and to revise their schedules of operations.

[Sec. 45.06.] Section 6. **Education and training periods.** The Governor may at any time proclaim, in the manner provided by section 5 for the proclamation of a defense period, a period or periods for education and training, and for the duration of such period or periods so proclaimed may put into effect rules and regulations which would otherwise be effective only during a defense period, and may exercise powers which could otherwise be exercised only during a defense period, provided, however, that rules and regulations prescribed under and powers conferred by subsections (2), (3), (4), (7), (9), (11), and (12) of section 5, and by sections 7, 10, and 13 shall not thereby be put into effect or exercised.

[Sec. 45.07.] Section 7. **Police and fire departments.** (a) **Control.** The Governor shall have power during a defense period, and for a reasonable time thereafter, to assume the supervision, control, and management of the police or police departments, or firemen or fire departments, of any and all counties and, to effectuate such supervision, control, and management may, in addition to any other powers vested in him, and without prejudice to the generality of the foregoing, (1) exercise any or all of the powers of any police commission, chief of police, sheriff, or chief of a fire department of any such county, and (2) any other law to the contrary notwithstanding, summarily remove, or suspend without compensation, any member or members of

any such police commission or any chief of police, chief of a fire department, sheriff, deputy sheriff, police officer or fireman.

(b) **Facilities.** The Governor may at any time provide for temporary auxiliary fire or police stations or posts, or for additions to existing stations, with the necessary equipment, including vehicles.

(c) **Civil service.** Without prejudice to the generality of sections 12 and 13 or the foregoing, it is specifically provided that during any defense period and for a reasonable time thereafter the Governor may suspend the application of Act 187 of the Sessions Laws of Hawaii 1939 to any police or fire department.

[Sec. 45.08.] Section 8. **Highways; public property; temporary government offices.** The Governor, during a defense period and for a reasonable time thereafter, shall have power to assume and exercise the supervision, control and management of all highways, territorial or county. He shall, during any such period and for a reasonable time thereafter, also have power to take possession of, use, manage, and control any public property, territorial or county, real or personal, required by him for the purposes of this Act, including, without prejudice to the generality of the foregoing or any provision of this Act, airports, parks, playgrounds, and schools and other public buildings. Whenever such property is so taken the Governor shall have power to make such provision for the temporary accommodation of the government service affected thereby as he may deem advisable. Like provision may be made at any time whenever it is necessary to relocate any government service because of any emergency condition.

[Sec. 45.09.] Section 9. **Proceedings against materials hoarded.** Whenever any essential materials shall be hoarded as determined under the provisions of this Act,

(1) Such essential materials shall be liable to be proceeded against in either the circuit court of the first judicial circuit or the circuit court in the judicial circuit where the essential materials are located, under a summary process, and if such essential materials shall be adjudged to be hoarded, they shall be disposed of by sale in such manner as to provide the most equitable distribution thereof as the court may direct, and the proceeds thereof less the legal costs and charges shall be paid to the party entitled thereto. The proceedings in such cases shall conform as nearly as may be to the proceedings in admiralty in the United States courts and shall include the right to seize, appoint a receiver, sell at public sale and any other

authority necessary to make the provisions of this Act effective. All such proceedings shall be at the suit and in the name of the Territory of Hawaii, and shall be brought by the attorney general. The court shall determine all questions of fact without the intervention of a jury.

(2) If such hoarding by a corporation be not discontinued after the issuance of an order therefor, the circuit court of the first judicial circuit may, in a suit brought by the attorney general in the name of the Territory of Hawaii, annul the charter of such corporation if it be a domestic corporation, or revoke its certificate of authority to transact business within the Territory if it be a foreign corporation.

(3) All suits brought under the provisions of this section shall be subject to appeal to, or other review by, the supreme court as by law provided, but no such appeal or proceeding for further review shall operate as a supersedeas, nor shall any stay of the execution of any judgment be allowed. In the event a judgment in favor of the Territory is reversed and any property has been sold pursuant to the judgment, the owner or other person entitled thereto shall have judgment against the Territory for a fair and just compensation for the property, as in cases of requisitions.

[Sec. 45.10.] Section 10. **Requisitions; damages.** During a defense period the Governor is authorized to requisition and take over any essential materials, real property or improvements, including any public utility, required for the purposes of this Act, or to requisition and take over the temporary use thereof during the defense period and for a reasonable time thereafter. Such requisition shall be made by serving notice thereof, which notice may be served upon any person found in occupation of the premises or having the property in his custody, possession or control, provided, that a like notice shall also be served upon any person who has filed with the Governor, or with such person as he may designate for the purpose, a request for notice with respect to such property, provided, further, that the Governor shall publish a notice of such requisition at the earliest practicable date.

Whenever the Governor shall requisition and take over any property or the temporary use thereof, as in this section provided, the owner thereof, or other person entitled thereto, shall be paid as compensation for such property or use such sum as the Governor shall determine to be fair and just, within twenty days after the same has been requisitioned and taken, provided, that such compensation for such temporary use may be paid in monthly or lesser installments. If any such person is unwilling

to accept, as full and complete compensation for such property or use, the sum so determined by the Governor, such person shall be paid fifty per centum of the sum so determined by the Governor, and shall be entitled to sue the Territory for such additional sum as, when added to the sum already received by such person, such person may consider fair and just compensation for such property or use, in the manner provided by chapter 127 of the Revised Laws of Hawaii 1935; provided, that such suit shall be instituted within two years after such requisition in the case of the taking of real property in fee simple, or within one year after such requisition in all other cases, subject, however, to the provisions of sections 3919 to 3922 of the Revised Laws of Hawaii 1935 which are hereby made applicable to such a suit, save that no more than six months shall be allowed for the bringing of such a suit after the appointment of a guardian of the property of the person under disability or the removal of such disability, or after the appointment of executors or administrators, as the case may be; provided, further, that recovery shall be confined to the fair market value of such property or the fair rental value thereof, as the case may be, without any allowance for prospective profits, punitive or other damages. Whenever the owner of property, or other person entitled to compensation on account of the requisitioning of property or the use thereof, is under a disability, or has died, and no guardian, executor or administrator has been appointed, the Territory, acting by and through the attorney general, may apply for the appointment of a guardian of the property of such person, or for the appointment of an administrator.

The Governor shall appoint a board of three disinterested appraisers with whom may be filed any claim for damages arising out of any failure to return private property the temporary use of which was requisitioned, or which was leased, or any claim for damages arising out of the condition in which such private property is returned, provided, however, that no such claim shall be filed for deterioration of property resulting from ordinary wear and tear, nor for any deterioration or damage except such as shall be shown to have resulted from the taking or use of such property. Such claim shall be filed within thirty days after the return of the property or after the Governor shall proclaim (in the manner provided by section 5 for the declaration of a defense period) that all private property has been returned to the owners, whichever is earlier. The decision of such appraisers shall be final and binding upon both the Governor and the claimant, provided, that either party may file a petition in the circuit court within sixty days after the rendering of such decision of the board, praying for the decision of the court upon

such claim. Such petition, if filed by the government, shall be entitled in the name of the Territory, by the attorney general, and shall be heard and decided by the circuit court without the intervention of a jury. If filed by any other party, such petition shall be filed, heard and decided in the manner provided for suits against the Territory. A further review by the supreme court may be had in the manner provided by law in such cases. The court may order the joinder of other parties, or may allow other parties to intervene. Any award which has become final shall be paid out of any funds available under this Act, and if not sufficient, out of the general revenues of the Territory not otherwise appropriated.

[Sec. 45.11.] Section 11. Application of laws to employees. The provisions of Act 187 of the Session Laws of Hawaii 1939, and chapter 260 and section 86 of the Revised Laws of Hawaii 1935, as the same may be amended, shall not apply to any persons appointed or employed pursuant to the provisions of this Act, and the Governor shall have power to determine to which, if any, of such persons the provisions of chapter 245 of the Revised Laws of Hawaii 1935 shall apply. No provision of law prohibiting the receipt of compensation from more than one government fund shall apply to compensation paid under the provisions of this Act.

[Sec. 45.12.] Section 12. Status of regular government employees. If any government officer or employee, territorial or county, shall be engaged in carrying out the provisions of this Act in lieu of his regular office or employment, his rights in or under the laws relating to vacations, the retirement system, civil service or the like, shall not be affected thereby.

If any civil service officer or employee be removed or suspended at a time when Act 187 of the Session Laws of Hawaii 1939 has been suspended or is inapplicable to such removal or suspension, as provided by this Act, he shall be entitled upon written application to the appropriate civil service commission, made within twenty days after the termination of the defense period in which he was so removed or suspended, to be reinstated forthwith, provided such civil service commission shall determine that he was not removed or suspended for good cause. Any such officer or employee who has been so reinstated, shall not, by reason of his removal or suspension, lose any rating or credit.

[Sec. 45.13.] Section 13. Suspension of laws. Any laws or ordinances which are inconsistent with the powers conferred on the Governor under this Act, or which impede or tend to im-

pede the expeditious execution of the provisions of this Act or in any way conflict with the purposes of this Act, may be suspended by the Governor, in whole or in part, during a defense period and for a reasonable time thereafter. Without prejudice to the generality of the foregoing or any provision of this Act, the laws of the Territory which may be so suspended, in whole or in part, include the following: Sections 21 and 22, chapters 4, 5, 15, 16, 17, 18, 19, 20, and 23, section 904, chapters 57, 58, 60, 79, 81, and 82, sections 2808, 2896 to 2903, inclusive, and 2922 to 2927, inclusive, chapter 87, section 3038, chapters 92, 93, 94, and 95, section 6839, and chapters 229, 245, 259A, 259-A1, 260, 261, and 262 of the Revised Laws of Hawaii 1935, including any amendments thereto; Acts 78, 127, 207, 212, 223, and 234 of the Session Laws of Hawaii 1937, including any amendments thereto; Acts 7, 104, 187, and 248 of the Session Laws of Hawaii 1939, including any amendments thereto; and Acts 80, 87, 128, 280, 303, 318, and section 9 of Act 82 of the Session Laws of Hawaii 1941, including any amendments thereto; provided that, as to Act 7 of the Session Laws of Hawaii 1939, as amended, Act 80 of the Session Laws of Hawaii 1941, and section 9 of Act 82 of the Session Laws of Hawaii 1941, the same may be suspended by the Governor as to any rules or regulations prescribed by him under this Act, whether or not a defense period has been declared.

[Sec. 45.14.] Section 14. **Civilian units.** The Governor shall have power to organize units of persons to carry out the provisions of this Act, to prescribe the duties of such persons, and to make rules and regulations to insure the continued and faithful performance of such duties.

[Sec. 45.15.] Section 15. **Preliminary or interlocutory injunctions and temporary restraining orders.** Any provision of law to the contrary notwithstanding, no preliminary or interlocutory injunction, or temporary restraining order, suspending, enjoining, or restraining the enforcement, operation, or execution of, or setting aside, in whole or in part, on the ground of unconstitutionality or for any other reason or reasons, any provision of this Act or any order, rule or regulation prescribed, made or issued under the authority of this Act, shall be issued or granted by any court of the Territory of Hawaii, or by any judge thereof, unless the application for the same shall be presented to a circuit judge, and shall be heard and determined by the said circuit judge sitting with two other circuit judges, and unless a majority of such judges shall concur in granting such application. When such application as aforesaid is presented to a judge, he shall immediately notify the chief justice of the supreme court of the

Territory of Hawaii, who shall forthwith assign two other circuit judges to assist in hearing and determining such application. Said application shall not be heard or determined before at least five days' notice of the hearing has been given to the Governor, to the attorney general, and to such other persons as may be defendants or respondents in the suit, provided, that in cases where irreparable damage would otherwise ensue to the petitioner, a majority of said three judges concurring, may, on hearing, after not less than three days' notice to the Governor and the attorney general, allow a temporary stay or suspension, in whole or in part, of the operation of such statutory provision, order, rule or regulation for not more than ten days from the date of the order of said judges, pending the application for the order or injunction, in which case the said order shall contain a specific finding, based upon evidence submitted to the judges making the order, and which shall be incorporated in said order by reference thereto, that such irreparable damage would result to the petitioner and specifying the nature of the damage. The said judges may, upon a like finding, continue the temporary stay or suspension for successive ten day periods until decision upon the application. The hearing upon such application shall be given precedence and shall be in every way expedited and be assigned for a hearing at the earliest practicable day after the expiration of the notice hereinbefore provided for. If a temporary stay or suspension has been allowed as aforesaid the matter shall be set for hearing within five days after the granting of such stay or suspension. No extension of time shall be granted without the approval of at least two of said three judges. Upon the final hearing of any such suit the same requirement as to judges and the same procedure as to expedition shall apply.

[Sec. 45.16.] Section 16. **Price control procedure.** Whenever the Governor shall determine that it is necessary to fix the maximum prices of essential materials, or any of them, he shall prescribe and promulgate a rule and regulation containing his findings of the existence of an actual or threatened shortage of such essential materials, enumerating the essential materials the maximum prices of which are to be regulated, and for each such essential material designating the agency which shall be vested with the authority to fix the maximum prices thereof, setting the date as of which, in his opinion, there developed such an actual or threatened shortage of such essential material as to result in the exaction of unfair and unreasonable prices therefor, setting forth such other matters as the Governor may deem advisable for the guidance of such agency, and directing such agency to proceed in accordance with the principles set forth in

this Act for fixing such maximum prices. The agency so designated shall investigate the facts affecting the prices for such essential material, and tentatively set the maximum prices therefor, giving reasonable notice of such tentative prices and of a reasonable time and place at which a fair and open hearing shall be held before such agency on the tentative prices so set. Such notice shall be given by publication thereof in a newspaper of general circulation in the Territory. At such hearing the agency shall proceed to hear and receive evidence which may affect its determination. Upon consideration of the evidence so received, the agency shall make findings of fact, which shall be conclusive except as hereinafter set forth, and shall issue an order fixing the maximum prices with respect to such essential material, which order shall be published in a newspaper of general circulation in the Territory, after which such maximum prices as so fixed shall be in force and effect. At any time thereafter, such agency may, on its own motion or after a request filed with it for such purpose, proceed to redetermine, from time to time, the maximum prices fixed as hereinabove provided, in which event the same procedure as that prescribed for the original determination shall be followed; provided, however, that the maximum prices theretofore fixed shall continue in force and effect until the agency makes a final order fixing other or different maximum prices.

An appeal shall lie to the supreme court from the final order of such agency fixing such maximum prices, in like manner as an appeal lies from an order or decision of a circuit judge at chambers; provided, however, that the review by the supreme court shall be limited to questions of law and that findings of fact by the agency, if supported by substantial evidence, shall be conclusive unless it shall clearly appear that such findings are arbitrary or capricious. The appeal shall not of itself stay the operation of the order appealed from, but the supreme court may stay the same after a hearing upon a motion therefor, upon such conditions as it may deem proper as to giving of bond and keeping the necessary accounts or otherwise in order to secure a restitution of the excess charges, if any, made during the pendency of the appeal in case the order appealed from should be sustained in whole or in part. Such appeal shall be speedily disposed of and in the hearing and disposition thereof the same shall be given preference over other litigation in the discretion of the court.

[Sec. 45.17.] Section 17. **Purchases, contracts.** Without prejudice to the generality of section 13, it is specifically provided that

chapter 4 of the Revised Laws of Hawaii 1935, as amended, shall not apply to any purchases made or projects initiated under the provisions of this Act, whenever, in the opinion of the Governor, there is insufficient time for public advertisements for bids, or conditions are such as to make it impracticable to obtain contracts at prices fixed in advance, or to comply with said chapter in any respect; provided, that contracts made on the basis of cost plus a contractor's profit shall be made on the cost-plus-a-fixed-fee basis, and the fee to be paid to the contractor shall be determined at or before the time such contract is made, shall be set forth in the contract, and shall not exceed 6% of the estimated cost of the contract, exclusive of the fee; changes in the amount of the fee shall be made only upon material changes in the scope of the work concerned, as determined by the Governor or his representative, whose determination shall be conclusive.

[Sec. 45.18.] **Section 18. Rules and regulations.** For the purpose of carrying out any provisions of this Act, the Governor shall have power to prescribe rules and regulations having the force and effect of law. Except as otherwise provided by this Act, rules and regulations prescribed by the Governor under the powers in him vested during a defense period shall be effective only during such a period.

The power to prescribe rules and regulations having the force and effect of law shall not be deemed in derogation of the power of the Governor, or his duly authorized representative or agency, to make orders for the enforcement of this Act or the rules and regulations issued thereunder. Such rules and regulations may provide for the making of administrative findings by duly authorized representatives or agencies, or for the application of such rules or regulations by such representatives or agencies as the circumstances may require, and the issuance of orders therefor.

Rules and regulations prescribed pursuant to the provisions of this Act shall be promulgated by publishing the same in a newspaper of general circulation in the Territory, or, where only known persons are concerned, the same may be promulgated by service upon such persons by registered mail, or by personal service thereof; provided, that when immediate promulgation of such rules or regulations is necessary in the opinion of the Governor, who shall be the sole judge thereof, in lieu of publication the same may be promulgated by posting copies of the same in at least ten public places in each county, or part thereof, affected thereby, and by radio broadcast, provided, further, that such rules or regulations shall be published thereafter, as hereinbefore provided, at the earliest practicable date.

[Sec. 45.19.] Section 19. **Investigations and surveys; service of papers.** The Governor, and his authorized representatives, shall have power to make investigations and surveys for the purpose of ascertaining facts to be used in administering this Act, and in making such investigations and surveys to require the making or filing of schedules or statements, under oath or otherwise, to administer oaths, take evidence under oath, subpoena witnesses, and require the production of books, papers and records. The circuit court of any circuit or judge thereof, shall have power to enforce by proper proceedings the making or filing of such schedules or statements, the attendance and testimony of any witness subpoenaed to appear within the circuit, or the production of such books, papers and records. Such proceedings shall be in addition to, and not exclusive of, any other means or methods of enforcement.

No person shall be excused from attending and testifying, or from producing books, papers or records before the Governor or his authorized representative, or in obedience to the subpoena of the Governor or his authorized representative, or in any cause or proceeding, criminal or otherwise, based upon or growing out of any alleged violation of this Act, or of any rule, regulation, or order thereunder, on the ground, or for the reason, that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no individual shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, documentary or otherwise, except that any individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

Witnesses shall be allowed their fees and mileage as in cases in the circuit courts. Any process, notice, or order, service of which is provided for by this Act, may be served by any police officer, guard, or warden, any other provision of law to the contrary notwithstanding.

[Sec. 45.20.] Section 20. **Appropriations.** (a) The sum of \$500,000.00 is hereby appropriated and made immediately available to be expended by the Governor in carrying out the provisions of this Act. In the event of a defense period, and for the duration thereof and a reasonable time thereafter, the Governor shall have power to designate from time to time further amounts required for the purposes of this Act, not exceeding

the total sum of \$1,000,000.00, in addition to the sum hereinbefore appropriated. Any moneys so designated by the Governor thereupon shall be deemed to be and are appropriated for the purposes of this Act.

(b) The Governor shall have power, if he deems the sums so appropriated during a defense period, or part thereof, to be not available out of moneys in the general fund not otherwise appropriated, to make such sums available out of any territorial or county funds (other than pension or retirement funds, funds set aside for the redemption of bonds or the payments of interest thereon, private trust funds, the unemployment compensation fund, the fund for the administration of the unemployment compensation law, or any funds received from the federal government or from any person or specific purposes), as provided in subsections (c) and (d) next following.

(c) The Governor shall have power to suspend the appropriation, in whole or in part, for such period as he may designate or until the further order of the Governor, of unencumbered funds appropriated by the legislature for purposes other than the purposes of this Act, whether or not already allotted for expenditure, and whether appropriated by a general appropriation act or a special appropriation act or by appropriating the revenues from a designated tax or fee, and whether appropriated to the Territory or a county. Such suspension may be made to operate upon the appropriation in gross or upon a particular portion or item thereof. Any such funds may, at the Governor's direction, be transferred into a special fund, from which the Governor shall have power to make expenditures or allotments for the purposes of this Act. The expenditure or allotment of the money so ordered to be made available may also be made by the Governor, directly from any fund or account in which unencumbered balances exist, the appropriation of which has been suspended by the Governor, in whole or in part. The Governor may direct the transfer of an appropriation made for the use of one department, commission, board, bureau, agency, instrumentality, or organization unit thereof, to another for use in carrying out the provisions of this Act, or may direct that an amount designated as required for the purposes of this Act be used for the purposes of this Act by the same commission, board, bureau, agency, instrumentality, or organization unit thereof to which the funds were originally appropriated.

(d) The Governor shall further have power to authorize or direct the chief executive and the board of supervisors, or any officer or agency of any county, to expend, or make available

for expenditure or allotment by the Governor for the purposes of this Act, any unencumbered funds appropriated or available for appropriation or use by any such officer or agency, out of the normal revenues or fund balances or surpluses of such county, notwithstanding any legal restrictions upon the purposes for which any such funds may be expended, other than as hereinbefore set forth. Any moneys so made available for use by the Governor may be held, allotted, or expended as provided by subsection (c).

(e) The total amounts made available under subsections (c) and (d), shall not exceed the amounts which, at the same time or previously, have been designated by the Governor as required for the purposes of this Act, and appropriated in subsection (a) of this section.

(f) Any order by the Governor made pursuant to this section may be amended or revoked.

(g) The Governor may allot any moneys appropriated by this Act, to any agency, officer, or employee, created, appointed or employed under the provisions of this Act, or to any government agency, officer, or employee, territorial or county, to whom powers or duties have been delegated pursuant to this Act, to be expended in carrying out the provisions of this Act, and in the case of county agencies, officers, or employees, to order such allotment paid over to be held, disbursed and accounted for as other county funds or as the Governor shall provide.

(h) Any sums realized under the provisions of this Act from the sale of property by the government, or from work done, services rendered or facilities furnished by the government, are hereby reappropriated for the purposes of this Act and may be expended or allotted in the same manner as other appropriations made by this Act.

(i) Any appropriation made under this Act may be expended notwithstanding the existence of a specific or other appropriation for the same or a like purpose, and without prejudice to the expenditure of such other appropriation.

[Sec. 45.21.] Section 21. Control of county agencies. The Governor shall have power, upon serving upon the chief executive of any county a written notice thereof, to assume, in whole or in part, the supervision, control and management of any agency or instrumentality of such county the purpose of which is to provide for the safety, health, security or welfare of the people of such county in the event of a public emergency or disaster, or having duties or powers otherwise similar to those

vested in the Governor by this Act. Upon so assuming the supervision, control and management of any such agency or instrumentality the Governor may exercise all or any of the powers and perform all or any of the duties conferred or imposed by law upon any such agency or instrumentality. He may terminate the exercise of such powers, including the power to declare when an emergency or emergency disaster exists, and the discharge of such duties, by such county agency or instrumentality, and he may cause the records, papers, files, pending business, supplies and other property of or pertaining to such agency or instrumentality to be transferred as he may direct, but no such transfer shall affect any right, claim or liability, accrued or existing prior to such transfer, and any rule, regulation or order made or act done by any such agency or instrumentality pursuant to the powers and duties theretofore vested in it shall continue to have the same force and effect until amended or rescinded by the Governor or his representative.

[Sec. 45.22.] Section 22. **Misdemeanors.** Any person violating any rule or regulation of the Governor prescribed and promulgated pursuant to the provisions of this Act, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished as follows: if the offense be committed during any defense period, by a fine not exceeding five thousand dollars, or by imprisonment not exceeding one year, or by both such fine and imprisonment; if the offense be committed during any period designated by the Governor for education and training as provided by section 6, by a fine not exceeding one thousand dollars or by imprisonment not exceeding ninety days, or by both such fine and imprisonment; or if the offense be committed at any time other than as above mentioned, by a fine not exceeding one thousand dollars, or by imprisonment not exceeding thirty days, or by both such fine and imprisonment.

Any person violating any effective order made under the provisions of this Act fixing the maximum price of any essential material, or selling any such material at a price greater than that fixed by any such effective order, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding five thousand dollars or by imprisonment not exceeding ninety days, or by both such fine and imprisonment.

[Sec. 45.23.] Section 23. **Felony.** Any person who wilfully and knowingly makes, circulates or transmits to another or others any statement or rumor, written, printed, or by word of

mouth or by any means, which is untrue in fact, that a defense period has been declared by the Governor, or who knowingly counsels, aids or procures another to start, transmit or circulate any such statement or rumor, shall be guilty of a felony, and upon conviction thereof shall be punished by a fine not exceeding five thousand dollars or by imprisonment at hard labor not exceeding five years, or by both such fine and imprisonment.

[Sec. 45.24.] Section 24. **Penalties prescribed by this Act additional to other penalties.** If conduct prohibited by this Act is also made unlawful by another or other laws, the offender may be convicted for the violation of this Act or such other law or laws.

[Sec. 45.25.] Section 25. **Arrests.** Any police officer, guard, warden or private person may arrest without a warrant any person violating any rule or regulation prescribed or made pursuant to the provisions of this Act, and having the force and effect of law, if the offense is committed within his presence, or within his immediate knowledge.

The right to make arrests as by this Act provided shall be in addition to any right, power or authority conferred by the laws of the Territory; and shall not be construed as abrogating, limiting or modifying any such right, power or authority.

[Sec. 45.26.] Section 26. **Other powers.** The powers and authority conferred upon the Governor by this Act shall be in addition to any other powers or authority conferred upon him by the laws of the United States of America and of the Territory for the same or a like purpose, and shall not be construed as abrogating, limiting or modifying any such powers or authority.

[Sec. 45.27.] Section 27. **Constitutionality.** If any section, sentence, clause or phrase of this Act, or its application to any person or circumstances, is for any reason held to be unconstitutional or invalid, the remaining portions of this Act, or the application of this Act to other persons or circumstances, shall not be affected. The legislature hereby declares that it would have passed this Act and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more other sections, sentences, clauses or phrases be declared unconstitutional or invalid.

[Sec. 45.28.] Section 28. **Short title.** This Act shall be known and may be cited as the "Hawaii Defense Act".

Section 29. **Effective date.** This Act shall take effect upon its approval, and shall remain and continue in force until June 30, 1943, unless upon said date the United States is at war, or the Governor shall have declared a defense period, in either of which events this Act shall remain and continue in force until the termination of the war, or until a date as of which the Governor shall declare the defense period terminated; provided, that any violation of this Act, committed while the Act is in force, may be prosecuted and punished thereafter whether or not this Act is in force at the time of such prosecution and punishment; provided further, that notwithstanding the foregoing, this Act shall remain and continue in force for the enforcement of rights and liabilities which shall have accrued or attached on or before the date of expiration, hereinabove set forth, and for the expenditure of moneys to meet obligations incurred under the authority of this Act prior to said date of expiration.

(Approved October 3, 1941.) S. B. 11, Act 24.

CHAPTER 4. EXPENDITURE OF PUBLIC MONEY.

CITIZEN LABOR.

[A-2] An Act to Amend Sections 87, 89 and 90 of the Revised Laws of Hawaii 1935, Relating to the Qualifications and Hours of Service of Persons Employed Upon any Public Work or in any Public Office of the Territory or any Political Subdivision Thereof.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 87 of the Revised Laws of Hawaii 1935, is hereby amended to read as follows:

“Sec. 87. **Only citizens employed, exception.** No person shall be employed as a mechanic or laborer upon any public work carried on by the territory, or by any political subdivision thereof, whether the work is done by contract or otherwise, unless such person is a citizen of the United States and of the territory; provided, however, that in cases where it is not reasonably practicable to obtain competent persons with the foregoing qualifica-

tions, persons without such qualifications may, with the approval of the Governor where the compensation for such employment is paid out of territorial funds, or with the approval of the Mayor or Chairman of the Board of Supervisors where the compensation for such employment is paid out of city and county or county funds or out of funds under the control of any city and county or county board, bureau or commission, be employed until persons with such qualifications competent for such services can be obtained." [L. 1903, c. 37, s. 1; am. L. 1925, c. 231, s. 1; R. L. 1935, s. 87; am. Sp. L. 1941, c. 46, s. 1.]

Section 2. Section 89 of the Revised Laws of Hawaii 1935, is hereby amended to read as follows:

"Sec. 89. Eight hours constitute a day. Eight hours of actual service on any working day, except on Saturday, on which day only five hours of actual service, shall constitute a day's labor for all mechanics, laborers, clerks and other employees employed upon any public work or in any public office of the territory or any political subdivision thereof, whether the work is done by contract or otherwise; provided, however, that in cases where it is not reasonably practicable to obtain competent persons in sufficient number for such employment such limit of hours of actual service may be exceeded in case of emergency with the approval of the Governor where the compensation for such employment is paid out of territorial funds, or with the approval of the Mayor or Chairman of the Board of Supervisors where the compensation for such employment is paid out of city and county or county funds or out of funds under the control of any city and county or county board, bureau or commission, until competent persons in sufficient numbers for such services can be obtained; provided, further, that except as herein provided, three hundred and thirty-six hours of actual service for twenty-eight days shall constitute legal work for such period for members of the fire department of the City and County of Honolulu, the number of hours for each day's work to be as fixed from time to time by the chief engineer of said department; provided, further, that as to such members such limit may be exceeded in case of emergency; and provided, further, that as a disciplinary measure the chief engineer of said department may require any such member to be or remain on duty for any period not in excess of sixty consecutive days." [L. 1903, c. 37, s. 2; am. L. 1907, c. 11, s. 1; am. L. 1925, c. 44, s. 1; am. L. 1933, c. 86, s. 1; R. L. 1935, s. 89; am. Sp. L. 1941, c. 46, s. 2.]

Section 3. Section 90 of the Revised Laws of Hawaii 1935, is hereby amended to read as follows:

PUBLIC CONTRACTS.
VACATIONS.

SERIES A-2.—Act 46]
SERIES A-3.—Act 25]

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"Sec. 90. Stipulation in contract. A stipulation that no mechanics, clerks, laborers or other employees employed upon any public work in the employ of the contractor or subcontractor shall be required to work more than eight hours in any one calendar day, except in cases of emergency as set forth in section 89, and that no mechanic or laborer, other than a citizen of the United States or except where it is not reasonably practicable to obtain such as set forth in section 87 as amended herein, shall be employed, shall be contained in any contract to which the territory or any political subdivision thereof is a party." [L. 1903, c. 37, s. 3; R. L. 1935, s. 90; am. Sp. L. 1941, c. 46, s. 2.]

Section 4. This Act shall take effect upon its approval.

(Approved October 9, 1941.) **H. B. 40, Act 46.**

VACATIONS, LEAVES OF ABSENCE.

[A-3] An Act to Amend Act 329, Session Laws of Hawaii 1941, by Adding a Proviso Relative to Casual Employees at the End of Section 104 Thereof.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 104** of Act 329, Session Laws of Hawaii 1941, is hereby amended by striking out the period at the end of said section and inserting a semi-colon, and adding a new proviso, to wit:

"provided, further, that the expression 'employees' shall include casual, irregular, or sporadic employees, commonly designated as per diem employees."

Section 2. This Act shall take effect from and after the date of its approval.

(Became effective October 4, 1941, without the Governor's signature.) **S. B. 13, Act 25.**

CHAPTER 5B. HAWAII LOYALTY LAW.

[A-4] An Act to Amend Act 128 of the Session Laws of Hawaii 1941, Relating to Officers and Employees of the Territory and the Several Counties Thereof and Requiring Such Persons to Take and Subscribe to the Oath or Affirmation Prescribed in Said Act 128; to Provide for the Payment of Compensation to Certain Persons, and the Validation of Certain Acts.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The first seven lines of section 1 of Act 128 of the Session Laws of Hawaii 1941 are hereby amended to read as follows:

[Sec. 156-A.] "Section 1. [Oath required of public employees; form.] All persons who are on October 15, 1941 holding any office or employment in the government of the Territory, or any county thereof, or holding any office or employment any part of the compensation for which is paid by the Territory or any county, shall before November 1, 1941 take and subscribe in writing the following oath:":

Section 2. The last line of section 2 [Sec. 156-B.] of said Act 128 is hereby amended by deleting the words and figures "July 1, 1941" and substituting in lieu thereof the words and figures "November 1, 1941."

Section 3. Section 3 of said Act 128 is hereby amended to read as follows:

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[Sec. 156-C.] "Section 3. [New employees to take oath.] All persons who, after October 15, 1941, are appointed or employed in the government of the Territory, or any county thereof, or appointed to or employed in any office or employment, any part of the compensation of which is paid by the Territory, or any county, shall before or within fifteen days after entering upon the duties of their respective offices or employments, take and subscribe the oath or affirmation prescribed in section 1, which shall be administered or made and subscribed in the manner in said section provided." [L. 1941, c. 128, s. 3; am. Sp. L. 1941, c. 60, s. 3.]

Section 4. Section 4 of said Act 128 is hereby amended to read as follows:

[**Sec. 156-D.**] “Section 4. [**Disqualification upon failure to take oath.**] Any person mentioned in section 3 who shall fail or refuse to take the oath or make the affirmation therein prescribed within the time therein specified shall thereupon become disqualified to continue to hold such office or employment under the Territory, or any county thereof, shall not be permitted to continue upon the duties of such office or employment, and shall be deemed to have released and forfeited all claim or right thereafter to any compensation payable by the Territory, or any county thereof, and in any event, the auditor of the Territory, or any county, is hereby prohibited from issuing any warrant to any such person for any services rendered after the time specified for taking and subscribing to the said oath or making the said affirmation; provided, however, that the failure or refusal of any such officer or employee to comply with the requirements of section 3 of this Act shall not be deemed to invalidate any act performed by him or by any court, board, commission, agency or any body of which he was a member during the time within which he was required and failed or refused to comply with section 3.” [L. 1941, c. 128, s. 4; am. Sp. L. 1941, c. 60, s. 4.]

Section 5. Section 5 [**Sec. 156-E.**] of said Act 128 is hereby amended by adding thereto at the end thereof a new paragraph to be numbered (6) and to read as follows:

“(6) The head of any department or any officer in the government of the Territory or any county, whose duty it is to authorize the drawing, signing or issuing of any warrant or check for the salary or compensation of any person required to comply with this Act may be required by the governor to certify on each such authorization that such person has taken and subscribed to the prescribed oath or made the required affirmation.”

Section 6. The second paragraph of section 8 [**Sec. 156-F.**] of said Act 128 is hereby amended to read as follows:

“The provisions of this section shall apply to existing registration, employment or reemployment lists and the names of all persons who failed to take or subscribe the oath or affirmation prior to November 1, 1941 shall be removed from any such lists and the name of no such person shall be certified to a head of a department for appointment or employment.”

Section 7. Section 13 of said Act 128 is hereby amended to read as follows:

[**Sec. 156-M.**] “Section 13. [**Waiver of oath by Governor, when allowed.**] The governor may waive compliance with all or

any part of the provisions of this Act in respect to the following classes of officers or employees or any portion thereof:

"1. Officers or employees of the Territory (including kokuas and voluntary helpers) located or stationed at the settlement of Kalaupapa or the Kalihi Receiving Station;

"2. Institutional inmate or patient employees or help in territorial or county institutions;

"3. Aliens employed by the Territory or any county, under the exceptions designated (b) and (c) of section 86 of the Revised Laws of Hawaii 1935, as amended;

"4. Referees, receivers, masters, and jurors; and

"5. Casual employees, or employees who are to be paid less than fifty dollars per month from the Territory or any county thereof as remuneration for their services." [L. 1941, c. 128, s. 13; am. Sp. L. 1941, c. 60, s. 7.]

^{A-13}
₁₃₂ Section 8. Said Act 128 is hereby amended by adding thereto after section 13 thereof a new section to be numbered section 13A and to read as follows:

[**Sec. 156-M1.**] "Section 13A. [**Extension of time to file oath.**] The governor may extend the time within which any officer or employee of the Territory, or any county thereof, is required to take or make the prescribed oath or affirmation, but in no case shall such extension be for a period longer than sixty days and then only after such officer or employee has shown in writing to the satisfaction of the governor that he failed to comply with the requirements of this Act because of illness, absence from the Territory, disability or any other reason deemed to be sufficient by the governor."

^{A-13}
₁₃₂ Section 9. Said Act 128 is hereby amended by adding thereto after section 16 thereof a new section to be numbered section 16A and to read as follows:

[**Sec. 156-P1.**] "Section 16A. [**Duplicate taking of oath, not required when.**] Any provision of this Act to the contrary notwithstanding, any person holding more than one office or employment or thereafter appointed to or employed in another or other offices or employment during the same calendar year shall not be more than once required during such calendar year to take and subscribe another oath or make another affirmation; provided, however, that as a condition thereof satisfactory proof of the prior taking or making of the oath or affirmation, as well as the filing and

certification thereof, may be required of any such person and provided, further, that this section shall not apply to the persons mentioned in section 7 hereof."

Section 9A. Any person who, prior to October 15, 1941, was required by law to take and subscribe to the oath or make the affirmation prescribed by Act 128 of the Session Laws of Hawaii 1941, prior to its amendment by this Act, and who, at any time prior to October 15, 1941, did take and subscribe to the said oath or make the said affirmation, shall be deemed to have complied with said Act 128, as amended by this Act, to the extent said Act 128 requires any oath or affirmation to be taken or made within the year 1941, notwithstanding the fact that any such oath was not taken and subscribed to or any such affirmation made within the time specified by said Act 128, prior to its amendment by this Act, provided, however, satisfactory proof of the taking or making of such oath or affirmation may be required of any such person.

Section 10. Any person who, prior to the effective date of this Act, has held any office or employment in the government of the Territory, or any county thereof, or has held any office or employment any part of the compensation of which was payable by the Territory, or any county, and who but for the provisions of Act 128 of the Session Laws of Hawaii 1941, before the same was amended by this Act, would have been entitled to compensation therefor, shall be entitled to and shall be paid such compensation if he has heretofore taken and subscribed to the oath or made the affirmation required by said Act 128 or does, before November 1, 1941, take and subscribe to the oath, or make the affirmation required by this Act. The payments herein directed to be made shall be made out of any appropriations now or hereafter available for such purpose.

Section 11. All acts of any officer or employee who heretofore failed or refused to comply with Act 128 of the Session Laws of Hawaii 1941, and all acts that any court, board, commission, agency or other body, any member of which was an officer or employee who failed or refused to comply with said Act 128, which, but for the provision of Act 128 of the Session Laws of Hawaii 1941 would have been valid, are hereby approved, ratified and confirmed.

Section 12. This Act shall take effect upon its approval.

(Approved October 15, 1941.) **S. B. 43, Act 60.**

CHAPTER 5C. CLASSIFICATION LAW.

[A-5] An Act Providing for a Classification System for Positions in the Government of the Territory of Hawaii and Its Political Subdivisions; Adopting the Hawaiian Compensation Schedules; and Appropriating Funds for the Purposes of This Act.

Be it Enacted by the Legislature of the Territory of Hawaii:

[Sec. 157.01.] Section 1. **Definitions.** As used in this Act:

The term “department” means a department of the executive branch of the government of the Territory of Hawaii; a governmental establishment in the executive branch of the government which is not a part of an executive department; the supreme court of the Territory of Hawaii; the land court of the Territory of Hawaii; and the district court of Kalawao; any office, bureau, institution, department, court, board, commission, or other agency or body of the public service of the City and County of Honolulu and the counties;

The term “bureau” means a department or a division or bureau of a department, as the context may require or indicate to be appropriate;

The term “the head of the department” means the officer or group of officers in the department who is not subordinate or responsible to any other officer of the department;

The term “position” means a specific office or employment whether occupied or vacant;

The term “employee” means any person occupying a position, whether permanently or otherwise;

The term “service” means the broadest division of related offices and employments;

The term “grade” means a subdivision of a service, including one or more positions for which approximately the same basic qualifications and compensation are prescribed, the distinction between grades being based upon differences in the importance, difficulty, responsibility and value of the work performed;

The term “class” means a group of positions sufficiently similar in respect to duties and responsibilities that the same requirements as to education, experience, knowledge and ability are demanded of incumbents, the same tests of fitness are used

to choose qualified appointees, and the same schedule of compensation can be made to apply with equity;

The term "compensation" means any salary, wage, fee, allowance or other emolument paid to an employee for service in a position;

The term "compensation schedules" means the Hawaiian Compensation Schedules as set forth in section 11 of this Act;

The term "board" means the personnel classification board;

The term "territory" means the Territory of Hawaii;

The term "city and county" means and includes the City and County of Honolulu;

The term "county" means and includes each of the counties of the territory.

PART I

CLASSIFICATION FOR THE TERRITORY

[Sec. 157.02.] Section 2. (a) **Personnel classification board.** The civil service commission of the Territory of Hawaii shall constitute the personnel classification board for the Territory of Hawaii. The chairman of the civil service commission shall be the chairman of the personnel classification board.

(b) **Director of classification.** The director of personnel of the civil service commission of the Territory of Hawaii shall constitute the director of classification and secretary of the board. The director of classification, with the approval of the board, shall appoint such assistants and employees as may be necessary for the proper performance of the board's duties under this Act and for which appropriations shall have been made by the legislature. Such assistants and employees shall be members of the civil service system and shall receive such salaries as shall be fixed pursuant to the provisions of this Act.

(c) **Compensation, expenses of board; meetings.** Each member of the board shall be paid his necessary traveling expenses incurred in the performance of his duties under this Act, and for his services under this Act shall be paid compensation at the rate of ten dollars (\$10.00) per day for each day's actual attendance upon his duties, but not to exceed, in the aggregate, one hundred dollars (\$100.00) in any month; provided, that when any such member shall be required to travel from any island to another island in the territory, in the performance of his duties under this Act, he shall be allowed, in addition to his compensation and transportation fares, ten dollars (\$10.00) a day to cover all other expenses.

The board shall meet at least once in each month, at such place as shall be made available for such purpose by the governor, and at such times as may be designated in advance by the board and at such other times for which meetings may be called by the chairman or governor. All regular meetings of the board shall be open to the public. Any two of the members shall constitute a quorum.

The board shall make an annual report to the governor not later than the 15th of February of each year.

[Sec. 157.03.] Section 3. **General duties and powers of the board.** The duties of the board shall be:

(1) To make all necessary rules and regulations not inconsistent with the provisions of this Act, which rules and regulations, when approved by the governor, shall have the force and effect of law.

(2) To decide what positions come within the scope of this Act.

(3) To decide which of the positions coming within the scope of this Act are subject to the compensation schedules prescribed in section 11 herein and which are subject to the principles and procedures specified in section 5 herein.

(4) To prepare, establish and keep current adequate specifications for all classes of positions covered by this Act, including those which are not subject to the compensation schedules prescribed in section 11 herein showing (a) the title established by the board for each class, (b) the duties and responsibilities involved in each class, illustrated where necessary by examples of typical tasks or typical positions in the class, (c) the minimum qualifications required for the satisfactory performance of such duties and tasks, and (d) the service and grade allocation or the salary rates for each class. For the purpose of initiating the classification as soon as possible the board may adopt the specifications prepared by the federal personnel classification board and known as P. C. B. Form No. 18 with such amendments as it may make and to whatever extent it may elect.

(5) To designate additional classes as necessity may arise from time to time and to combine, divide, alter, or abolish existing classes.

(6) To prescribe additional services to cover all positions which are not subject to section 5 (a) herein, and which shall not fairly and reasonably be allocable to grades within one of the services described within the compensation schedules herein, such services to consist of grades with the same ranges of compensation provided by section 11 herein for positions which are comparable therewith as to qualifications and duties.

(7) To subdivide the several grades of the compensation schedules herein into appropriate classes and prescribe such minimum and maximum salary rates for each class as the board may consider proper within the range of the grade involved.

(8) To ascertain currently the facts as to the duties and responsibilities of any position within the scope of this Act, and to determine finally the class to which any such position shall be allocated, and in addition the service and grade to which classes of positions subject to the compensation schedules prescribed in section 11 herein shall be allocated.

(9) To review the allocations of positions to classes or of classes to services and grades and to change such allocations whenever in its opinion the facts warrant; provided, that such review and change shall be made only after consultation with the heads of the departments concerned and after affording incumbents of positions affected an opportunity to be heard, of which hearing a permanent record shall be made and kept; provided, further, that in all cases where the board shall change the allocation of a position to a lower grade or class the rate of pay fixed for such position prior to such change may be continued so long as the position is held by the incumbent then occupying it.

(10) To prepare and establish schedules of adjustments in compensation for positions carrying maintenance where such maintenance is considered as part of the compensation and for positions requiring only part-time service, to render final decisions applying these schedules to individual positions, and to make reviews and revisions of such schedules and decisions when necessary.

(11) To make studies of the rates of compensation provided in section 11 of this Act for the various services and grades with a view to recommending to the legislature any readjustment deemed by the board to be just and reasonable and to make investigations upon all matters touching the administration of this Act and its practical effect. The board shall, after such study and at such subsequent times as may be necessary, report its conclusions to the legislature with any recommendations which it may deem advisable for the more effective accomplishment of the purposes of this Act.

(12) To fully correlate, and to any extent combine, the annual reports, rules and regulations, meetings, personnel and procedure and practices under this Act with those required, promulgated, held or carried out under the provisions of Act 187, Session Laws of Hawaii 1939, but to no degree shall such correlation or combination be permitted to authorize procedure and practices or to

extend to the board powers not specifically given either in said Act 187 or in this Act or in amendments thereof.

(13) Any rules, regulations, schedules, classifications, procedure or practices, already adopted or established by the United States Civil Service Commission, which are set forth in printed documents, pamphlets, or books, copies of which can be and are secured by the board, and which can be definitely identified by reference to the title or other designations of such rules, regulations, schedules, classifications, procedure or practices or by reference to the titles or designations or to the page number of such documents, pamphlets, or books, or any of them, need not be set out in full but may be adopted by reference alone to such federal rules, regulations, classifications, procedure or practices.

(14) With respect to proceedings and hearings held by the board and investigations made and conducted by it, the board, each member thereof, and the director shall have all of the powers respecting the giving of oaths, issuance of subpoenas, compelling the attendance of witnesses, the production of documentary evidence and examining of witnesses as are conferred upon the civil service commission and its director of personnel under the civil service Act.

[Sec. 157.04.] Section 4. Scope of the Act. This Act shall apply to all positions of persons employed in the public service of the Territory of Hawaii or whose compensation is paid in whole or in part from territorial funds (not including funds which, though contributed by the territory, are expended under the control of county agencies), including positions the compensation for which is specifically fixed by any other law or the general appropriation Act; provided, however, that this Act shall not apply to:

(1) All positions specifically exempted from the provisions of this Act by any other law;

(2) Positions of members of any board or commission;

(3) Positions of all officers and heads of departments whose appointments are made by the governor, pursuant to the provisions of the first paragraph of section 80 of the Hawaiian Organic Act, and the positions of commissioner of public health and of the director of the bureau of the budget; provided, however, that the positions of assistant and deputy attorneys general may be exempted from classification by order of the governor;

(4) Teaching and supervisory positions (which shall not be construed to include secretarial or clerical employment, or cafeteria managers and helpers when not combined with teaching) under the department of public instruction filled by teachers, principals, supervising principals, and similar personnel;

(5) Positions filled by members of the faculty of the University of Hawaii, including research workers, extension agents, and all personnel engaged in instructional work;

(6) Household positions at Washington Place;

(7) Positions filled by inmates, kokuas, patients, students, or beneficiaries in territorial institutions;

(8) Positions of judges, referees, receivers, masters, jurors, jury commissioners, notaries public, land court examiners, and court commissioners;

(9) Positions of inspectors of election, election clerks, and other election employees;

(10) Positions of commissioned and enlisted personnel of the national guard of Hawaii as such;

(11) Positions filled by the Legislature of the Territory of Hawaii or by either House or any committee thereof;

(12) Positions filled by persons employed by contract to render a special or temporary service for the territory where such contract is certified by the board to be for a service which, from its nature, can better be performed by other than a classified employee; and

(13) Positions filled by persons employed locally on a fee, contract or piecework basis who may lawfully perform their duties concurrently with their private business or profession or other private employment and whose duties require only a portion of their time, if it is impracticable to ascertain or anticipate the portion of time devoted to the service of the territory.

[Sec. 157.05.] Section 5. Scope of the compensation schedules of this Act; special duties and powers of the board.

(a) The compensation schedules prescribed in section 11 of this Act shall not apply to positions the duties of which are to perform the work of an apprentice, helper, or journeyman in a recognized trade or craft, or the work of a skilled artisan or a skilled, semi-skilled or an unskilled laborer. The rates of compensation for such positions shall be fixed and adjusted from time to time by the board, subject to the approval of the governor, so as to conform, as nearly as is consistent with the public interest, with the prevailing rates for similar positions under similar employment conditions in private or federal establishments in the locality where the work is performed. Such rates shall be determined after an investigational procedure conducted by the board which shall make use of existing wage board organizations and methods as far as practicable, after consultation with the heads of departments, and after opportunity for hearing open to employees affected has been granted; provided, that

the compensation schedules herein may, in the discretion of the board, be made to apply to any class of positions involving the custody, operation and maintenance of territorial property, or work which is subordinate, incidental or preparatory to work of a professional, scientific or technical character.

(b) The governor is authorized, after suitable investigation by the board, which shall include consultation with the heads of the departments in which such positions are located, to exclude from the compensation schedules prescribed in section 11 of this Act, and to establish different compensation rates and procedures for any or all of the positions in the following groups: positions on work which is financed jointly by the territory and the United States, the city and county, a county, or municipality, or cooperating persons or organizations outside the territorial service, the pay of which is fixed under a cooperative agreement with the territory; positions for which none or only part of the compensation is paid from the funds of the territory; and emergency, seasonal, or other positions the duties of which are of purely temporary duration or which are required only for brief periods at intervals.

(c) If the board shall find at any time that the rates of the compensation schedules prescribed in section 11 herein are inadequate for positions having the characteristics described below, it may recommend to the governor, after consultation with the heads of departments, and the governor may establish on account of such characteristics necessary schedules of differentials or adjustments in the rates prescribed in such compensation schedules, but the differential in the compensation of any such position shall not exceed twenty-five per centum of the minimum rate of the class to which such position is allocated under such compensation schedules:

Positions whose duties and responsibilities cause them to fall within the compensation schedules prescribed herein, but which are located at stations which are isolated, remote or inaccessible when compared with stations at which positions of the same class are usually located, or which involve physical hardships or hazards which are excessive when compared with those usually involved in positions of the same class or occupation, provided, that nothing herein contained shall preclude the board from taking the factor of isolation, hardships or hazards into consideration in allocating a given class to a service and grade under the compensation schedules herein if it is uniformly involved in each position in the class, in which event no adjustment of the rates so determined is authorized under this section.

(d) The board shall prepare and keep current appropriate regulations for carrying paragraphs (a), (b), and (c) hereof

into effect. Such regulations shall include among other things the current wage schedules for the groups of positions covered by paragraph (a) hereof, definitions of any exclusions covered by paragraph (b) hereof, schedules of differentials or adjustments covered by paragraph (c) hereof, and class specifications in the form provided for in section 3 of this Act, covering the positions included within all such paragraphs, which specifications shall adequately indicate the duties and responsibilities of such positions under the titles by which they are referred to in the wage schedules, the schedules of differentials or adjustments, or the regulations.

[Sec. 157.06.] Section 6. **Procedure for the initial classification of positions under this Act.** (a) Upon the passage of this Act, and in accordance with a uniform procedure prescribed by the board, the head of each department shall recommend the allocation of all positions in his department coming within the scope of this Act to the appropriate classes described in the specifications adopted by the board and shall report such recommended allocations to the board in such form and manner as it shall direct. The board shall review such reports and certify approved allocations (whether or not in accord with such recommendations) to the department as promptly as possible. It is provided, however, that the board, at the request of the head of the department or the employee affected, shall reconsider its allocation and give the head of the department and the employee an opportunity to be heard. Upon receipt of a final certificate from the board, the heads of departments shall fix the rate of compensation of each employee involved in accordance with such certificate. If the position occupied by the employee is subject to the compensation schedules prescribed in section 11 herein, such rate shall be fixed in accordance with the rules prescribed in section 7 herein. If the position occupied by the employee is not subject to said compensation schedules, such rate shall be fixed in accordance with the schedules and regulations adopted by the board under section 5, paragraph (d) herein.

(b) Provided, that the compensation of no incumbent who is such on the effective date of this Act which is fixed by any other law or the general appropriation Act shall be reduced under this Act below the rate being paid him on said effective date so long as he continues to hold the same position.

(c) Special provisions.

I. The allocation of any position in the service of the territory to one of the grades described in the compensation schedules shall, notwithstanding any provisions of the compensation schedules to the contrary, be based, among other things, upon (1) the

relative size of the department, bureau, or other unit of which such position forms a part, as compared to that of other departments, bureaus, or units in said service; (2) the kind and variety, and the degree of importance (as compared to the various other departments, bureaus, units or positions in said service) of the work with which such department, bureau, unit or position is charged; and (3) the relative scope and complexity of the problems of administration of such department, bureau, unit or position, as compared to that of other departments, bureaus, units or positions in said service.

II. The allocation of any position in the service of a county (including the city and county) to one of the grades described in the compensation schedules shall, notwithstanding any provisions of the compensation schedules to the contrary, be based, among other things, upon: (1) the relative size of the department, bureau, or other unit of which such position forms a part, as compared to (A) the size of corresponding or similar departments, bureaus, or units in the service of the territory, (B) the size of corresponding or similar departments, bureaus, or units in the service of each other county, and (C) the size of other departments, bureaus, or other units in the service of such county; (2) the kind and variety, and the degree of importance (as compared to (A) that of corresponding or similar departments, bureaus, units or positions in the service of the territory, (B) that of corresponding or similar departments, bureaus, units or positions in the service of each other county, and (C) that of other departments, bureaus, units or positions in the service of such county) of the work with which such department, bureau, unit or position is charged; and (3) the relative scope and complexity of the problems of administration of such department, bureau, unit or position, as compared to (A) that of corresponding or similar departments, bureaus, units or positions in the service of the territory, (B) that of corresponding or similar departments, bureaus, units or positions in the service of each other county, and (C) that of other departments, bureaus, units or positions in the service of such county.

III. Subsection (c) of this section shall be so construed and applied as to effect, as far as possible, classification of positions and adjustment of compensation on a uniform basis, using the classified positions and adjusted compensation in the service of the territory as the general base for relative classification of or adjustment of compensation for positions in the service of each county, taking into consideration, notwithstanding the literal language of the compensation schedules, the differences in (1) size of department, bureau, or other unit, (2) variety and degree of importance of department, bureau, unit or position, (3) im-

portance of the work with which each department, bureau, unit or position is charged, (4) the amount of responsibility assumed by the position, and (5) the scope and complexity of the problems of administration of the department, bureau, unit or position, between corresponding or similar departments, bureaus, units or positions in the service of the territory and those in the various counties.

(d) For the purpose of facilitating payment of compensation of employees pending the completion of the initial classification under this Act, the board, immediately after the effective date of this Act, may temporarily adopt, in whole or in part without recommendations from any head of department, any allocation of positions and rates of compensation in effect immediately prior to said effective date, and, as to each such position, until the completion by the board of the final initial allocation of such position to a class and grade, the compensation for such position may be paid at such rate so temporarily adopted; provided, however, that if upon such final initial allocation under this Act:

(1) An employee shall be found to have been temporarily so over-classified and to have been paid, in accordance with such over-classification, compensation in excess of that which, if he had been finally classified by the board on November 1, 1941, he would have been paid, he shall not be required to reimburse to the government the amount of such temporary over-payment; or

(2) An employee shall be found to have been temporarily so under-classified, than upon such final initial classification under this Act he shall be allowed and paid, upon proper certification by the board, an adjustment of his compensation in accordance with his said final classification retroactively to November 1, 1941.

Nothing in subsection (d) of this section contained shall be deemed to constitute a legislative ratification of any such pre-existing classification allocations which may be so temporarily adopted by the board.

[Sec. 157.07] Section 7. **Adjustments of compensation to conform with classification.** In determining initially the compensation to be paid employees occupying positions covered by the compensation schedules prescribed in section 11 herein, the following rules shall govern:

(1) The compensation fixed for each position on June 30, 1941, shall be used as the base for making the adjustments provided herein. Adjustment of compensation of any employee promoted or whose position has been reclassified or of any person

employed after June 30, 1941, shall be on the basis of the territorial compensation schedules in effect on June 30, 1941.

(2) In computing the compensation of any employee in a position in which the employee receives quarters, heat, light, household equipment, subsistence, maid service or laundry service, such allowances may be considered as part of the compensation for the purpose of fixing the salary rate of such position and, in such case, the reasonable value of such allowances shall be determined by the board.

(3) If the employee was receiving compensation less than the minimum rate of the class in which his duties fall, the compensation shall be increased to that minimum rate.

(4) If the employee was receiving compensation within the range of salary prescribed for the appropriate class at one of the rates fixed therein, no change shall be made in the existing compensation.

(5) If the employee was receiving compensation within the range of salary prescribed for the appropriate class, but not at one of the rates fixed therein, the compensation shall be increased to the next higher rate.

(6) If the employee was receiving compensation in excess of the range of salary prescribed for the appropriate class, he shall continue to receive such compensation so long as he continues to serve in the position with substantially the same duties and responsibilities; provided, however, that notwithstanding the provisions of subsection (1) of this section, the compensation of no incumbent who is such on the effective date of this Act which is fixed by any other law or the general appropriation Act shall be reduced under this Act below the rate being paid him on said effective date so long as he continues to hold the same position.

(7) If, after the adjustment of compensation of all employees has been made in accordance with subsections (3), (4), and (5) herein, it is shown that no change has been made in an employee's rate of compensation, or that such employee's adjustment is less than the value of one increment of the salary range prescribed for the appropriate class, the compensation of such employee shall be further adjusted by the addition of one increment, to the next higher rate but not higher than the maximum rate, provided the employee has occupied the position for a period not less than eighteen months prior to the effective date of this Act and has received no increase in compensation since April 1, 1941.

(8) All new appointments shall be made at the minimum rate of the appropriate class; provided, however, that this shall not be construed to require the reduction in salary of any person who

is transferred from one position to another position in the same grade or who is promoted to a higher grade.

[Sec. 157.08.] Section 8. **Increases of compensation and efficiency ratings.** (1) Increases in compensation of employees occupying positions subject to the compensation schedules prescribed in section 11 herein to the next higher rate within the salary range of the class to which their positions are respectively allocated, shall be allowed:

(a) In the case of employees in the service of the territory, at the end of each employee's year of service upon the attainment and maintenance of the requisite standard of efficiency (this basis being hereinafter referred to as the "service anniversary basis"); provided, that the probationary period of an employee shall be considered as part of that year's service upon this basis.

(b) In the case of employees in the service of any county (including the city and county) (1) either on said service anniversary basis, or (2) in the following manner (hereinafter referred to as the "fiscal year basis"): At the end of each fiscal year's service upon the attainment and maintenance of the requisite standard of efficiency; provided that employees in jurisdictions using the fiscal year basis who have completed their probationary period during the fiscal year shall be considered as having completed their fiscal year's service, for the purposes of this paragraph. The board of supervisors of each county and each independent board not dependent for its funds upon the board of supervisors of the county, shall, within thirty days after the passage of this Act, by resolution requiring one reading, elect under which of said two bases—the service anniversary basis or the fiscal year basis—the employees under its jurisdiction shall be allowed said annual increments. Any such board may thereafter by similar resolution adopted before the beginning of any fiscal year, change from one to the other of such basis.

(2) Provided, that in no case shall the compensation of any employee be increased unless the legislature has appropriated money from which the increase may lawfully be paid, nor shall the compensation of any employee be increased more than one rate in any year, except as otherwise provided, nor to a rate higher than the maximum rate for the class to which his position is allocated. The compensation of any employee may be increased an additional rate at any time within any year for meritorious service when such increase is approved by the governor, following a request from the head of the department concerned and the recommendation of the board.

[Sec. 157.09.] Section 9. **Efficiency ratings.** The head of each department shall determine and record once each year whether the services of each employee under his jurisdiction, occupying a position which is subject to the compensation schedules prescribed in section 11 or which is otherwise subject to classification under this Act, have been (a) good, (b) fair, or (c) unsatisfactory, and shall report such finding to the board on forms prescribed by the board and at such time as the board specifies.

Any employee aggrieved by any such rating may appeal to the board for a review of such rating by filing a written request therefor with the board within twenty days after receipt by such employee of written notice of such rating, and the board shall thereupon reconsider such rating, after giving to the employee and the head of his department reasonable notice and an opportunity to be heard, and the decision of the board upon such appeal shall be final as to such rating.

Any employee rated "good" shall be eligible for advancement to the maximum rate of his class; any employee rated "fair" shall not be eligible for salary advancement within the range of pay for his class, and if he shall be already receiving a salary higher than the middle rate of his class he may be reduced one salary rate; any employee rated "unsatisfactory" shall be demoted to a lower class or dismissed.

[Sec. 157.10.] Section 10. **Transfers and promotions.** Nothing in this Act shall be construed to prevent the transfer, subject to such rules and regulations as the board may prescribe, of an employee from a position in one grade to a vacant position within the same grade at the same rate of compensation, or the promotion, subject to such rules and regulations, of an employee to a vacant position in a higher grade at a higher rate of compensation, without regard to the department in which the vacant position is located. When so promoted the employee shall receive compensation according to the schedule of compensation established for the grade and class to which he is promoted.

[Sec. 157.11.] Section 11. **The Hawaiian Compensation Schedules.** The compensation schedules for positions which are subject thereto under the provisions of this Act shall be as follows:

PROFESSIONAL AND SCIENTIFIC SERVICE

The professional and scientific service shall include all classes of positions the duties of which are to perform routine, advisory, administrative, or research work which is based upon the established principles of a profession or science, and which re-

quire professional, scientific, or technical training equivalent to that represented by graduation from a college or university of recognized standing.

GRADE 1

Grade 1 in this service shall include all classes of positions the duties of which are to perform, under immediate supervision, and with little opportunity for the exercise of independent judgment, elementary work requiring professional, scientific, or technical training as herein specified, but little or no experience.

The annual rates of compensation for this grade shall be \$2,070, \$2,185, \$2,315, \$2,460, and \$2,610.

GRADE 2

Grade 2 in this service shall include all classes of positions the duties of which are to perform, individually or with trained assistants, under general supervision, and with limited latitude for the exercise of independent judgment, important routine work, somewhat difficult in character, requiring professional, scientific, or technical training as herein specified, and additional professional, scientific, or technical training or experience.

The annual rates of compensation for this grade shall be \$2,610, \$2,765, \$2,935, \$3,115, and \$3,305.

GRADE 3

Grade 3 in this service shall include all classes of positions the duties of which are to perform, individually or with trained assistants, under general supervision, and with considerable latitude for the exercise of independent judgment, responsible work of moderate difficulty and importance, requiring professional, scientific, or technical training as herein specified and considerable additional professional, scientific, or technical training or experience which has demonstrated capacity for sound independent work.

The annual rates of compensation for this grade shall be \$3,305, \$3,505, \$3,705, \$3,905, and \$4,105.

GRADE 4

Grade 4 in this service shall include all classes of positions the duties of which are to perform, individually or with trained assistants, under general supervision, and with wide latitude for the exercise of independent judgment, responsible work of considerable difficulty and importance requiring somewhat extended professional, scientific, or technical training and experience

which has demonstrated important attainments and marked capacity for independent work.

The annual rates of compensation for this grade shall be \$3,980, \$4,180, \$4,380, \$4,580, and \$4,780.

GRADE 5

Grade 5 in this service shall include all classes of positions the duties of which are to perform, individually or with trained assistants, under general administrative supervision, and with wide latitude for the exercise of independent judgment, work of marked difficulty, importance and responsibility requiring extended professional, scientific, or technical training and experience which has demonstrated leadership and attainments of a high order in professional, scientific, or technical research practice, or administration.

The annual rates of compensation for this grade shall be \$4,600, \$4,800, \$5,000, \$5,200, and \$5,400.

GRADE 6

Grade 6 in this service shall include all classes of positions the duties of which are to perform, individually or with trained assistants, under administrative direction, and with wide latitude for the exercise of independent judgment, work of exceptional difficulty, importance, and responsibility requiring extended professional, scientific, or technical training and experience which has demonstrated leadership and marked attainments in professional, scientific, or technical research, practice, or administration; or to serve as the assistant head of a major professional or scientific bureau or commensurate organization; or to serve as the head of a small professional or scientific bureau or commensurate organization; or to serve as consulting specialist and to furnish for final executive action expert critical advice on professional, scientific, or technical problems or policies of exceptional importance; or to perform professional or scientific work of equal importance, difficulty and responsibility.

The annual rates of compensation for this grade shall be \$5,600, \$5,800, \$6,000, \$6,200, and \$6,400.

GRADE 7

Grade 7 in this service shall include all classes of positions the duties of which are to perform, individually or with trained assistants, under general administrative direction, and with wide latitude for the exercise of independent judgment, work of outstanding difficulty, importance and responsibility requiring extended professional, scientific, or technical training and ex-

perience which has demonstrated leadership and exceptional attainments in professional, scientific, or technical research, practice, or administration; to serve as the head of a professional or scientific bureau which, considering its size, the kind, variety and degree of importance of the work with which it is charged, and the scope and complexity of its problems of administration, is one of the major bureaus of the government; or to serve as the head of a commensurate organization; or to serve as the assistant head of one of the outstanding professional or scientific bureaus or commensurate organizations; or to serve as professional consultant to a department head or a commission or board and to furnish for final executive action expert critical advice on professional, scientific, or technical problems or policies of outstanding difficulty and importance; or to perform professional or scientific work of equal importance, difficulty and responsibility.

The annual rate of compensation for this grade shall be \$6,500.

SUBPROFESSIONAL SERVICE

The subprofessional service shall include all classes of positions the duties of which are to perform work which is incident, subordinate, or preparatory to the work required of employees holding positions in the professional and scientific service, and which requires or involves professional, scientific, or technical training of any degree inferior to that represented by graduation from a college or university of recognized standing.

GRADE 1

Grade 1 in this service shall include all classes of positions the duties of which are to perform, under immediate supervision, the simplest routine subordinate work of a professional, scientific, or technical character.

The annual rates of compensation for this grade shall be \$1,110, \$1,200, \$1,290, \$1,380, and \$1,470.

GRADE 2

Grade 2 in this service shall include all classes of positions the duties of which are to perform, under immediate supervision with little or no latitude for the exercise of independent judgment, elementary subordinate work of a professional, scientific, or technical character, requiring limited subprofessional training or experience.

The annual rates of compensation for this grade shall be \$1,290, \$1,380, \$1,470, \$1,560, and \$1,650.

GRADE 3

Grade 3 in this service shall include all classes of positions the duties of which are to perform, under immediate supervision, and with little or no latitude for the exercise of independent judgment, routine subordinate work of a professional, scientific, or technical character, requiring somewhat limited subprofessional training or experience, and familiarity with a limited field of professional, scientific, or technical work.

The annual rates of compensation for this grade shall be \$1,470, \$1,560, \$1,650, \$1,750, and \$1,850.

GRADE 4

Grade 4 in this service shall include all classes of positions the duties of which are to perform, under immediate or general supervision, with limited latitude for the exercise of independent judgment, somewhat difficult and responsible subordinate work of a professional, scientific, or technical character, requiring a moderate degree of subprofessional training or experience and good knowledge of a limited field of professional, scientific, or technical work.

The annual rates of compensation for this grade shall be \$1,650, \$1,750, \$1,850, \$1,960, and \$2,070.

GRADE 5

Grade 5 in this service shall include all classes of positions the duties of which are to perform, under immediate or general supervision, with moderate latitude for the exercise of independent judgment, moderately difficult and responsible subordinate work of a professional, scientific, or technical character, requiring considerable subprofessional training or experience, and thorough knowledge of a limited field of professional, scientific, or technical work.

The annual rates of compensation for this grade shall be \$1,850, \$1,960, \$2,070, \$2,185, and \$2,315.

GRADE 6

Grade 6 in this service shall include all classes of positions the duties of which are to perform, under immediate or general supervision, with moderate latitude for the exercise of independent judgment, difficult and responsible subordinate work of a professional, scientific, or technical character, requiring thorough subprofessional training or experience, and thorough knowledge of a limited field of professional, scientific, or technical work.

The annual rates of compensation for this grade shall be \$2,070, \$2,185, \$2,315, \$2,460, and \$2,610.

GRADE 7

Grade 7 in this service shall include all classes of positions the duties of which are to perform, under general supervision or direction, and with considerable latitude for the exercise of independent judgment within a limited field, subordinate work of considerable difficulty and responsibility of a professional, scientific, or technical character, requiring somewhat extended subprofessional training or experience, and working knowledge of the principles of the profession, art, or science involved.

The annual rates of compensation for this grade shall be \$2,315, \$2,460, \$2,610, \$2,765, and \$2,935.

GRADE 8

Grade 8 in this service shall include all classes of positions the duties of which are to perform, under general supervision or direction, and with considerable latitude for the exercise of independent judgment within a limited field, very difficult and responsible subordinate work of a professional, scientific or technical character, requiring extended subprofessional training or experience, and thorough working knowledge of the principles of the profession, art, or science involved.

The annual rates of compensation for this grade shall be \$2,610, \$2,765, \$2,935, \$3,115, and \$3,305.

CLERICAL, ADMINISTRATIVE AND FISCAL SERVICE

The clerical, administrative and fiscal service shall include all classes of positions the duties of which are to perform clerical, administrative, or accounting work, or any other work commonly associated with office, business, or fiscal administration.

GRADE 1

Grade 1 in this service shall include all classes of positions the duties of which are to perform, under immediate supervision and with little or no latitude for the exercise of independent judgment, the simplest routine office work.

The annual rates of compensation for this grade shall be \$1,290, \$1,380, \$1,470, \$1,560, and \$1,650.

GRADE 2

Grade 2 in this service shall include all classes of positions the duties of which are to perform, under immediate supervision

and with limited latitude for the exercise of independent judgment, routine office work requiring limited training or experience.

The annual rates of compensation for this grade shall be \$1,470, \$1,560, \$1,650, \$1,750, and \$1,850.

GRADE 3

Grade 3 in this service shall include all classes of positions the duties of which are to perform, under immediate or general supervision and with some latitude for the exercise of independent judgment, somewhat difficult and responsible office work requiring some training or experience and a working knowledge of a special subject matter and of office procedure and practice.

The annual rates of compensation for this grade shall be \$1,650, \$1,750, \$1,850, \$1,960, and \$2,070.

GRADE 4

Grade 4 in this service shall include all classes of positions the duties of which are to perform, under immediate or general supervision, and with some latitude for the exercise of independent judgment, moderately difficult, important and responsible office work requiring moderate training and experience and good knowledge of a special subject matter and of office procedure and practice.

The annual rates of compensation for this grade shall be \$1,850, \$1,960, \$2,070, \$2,185, and \$2,315.

GRADE 5

Grade 5 in this service shall include all classes of positions the duties of which are to perform, under general supervision, and with substantial latitude for the exercise of independent judgment, difficult, important and responsible office work requiring considerable training and experience, a broad knowledge of a special subject matter and a thorough knowledge of office procedure and practice.

The annual rates of compensation for this grade shall be \$2,070, \$2,185, \$2,315, \$2,460, and \$2,610.

GRADE 6

Grade 6 in this service shall include all classes of positions the duties of which are to perform, under general supervision, and with considerable latitude for the exercise of independent judgment, difficult, important and responsible office work along

specialized or administrative lines, requiring considerable training and experience and a good knowledge of a specialized subject matter or of administrative work.

The annual rates of compensation for this grade shall be \$2,315, \$2,460, \$2,610, \$2,765, and \$2,935.

GRADE 7

Grade 7 in this service shall include all classes of positions the duties of which are to perform, under general supervision, with considerable latitude for the exercise of independent judgment, office work of considerable difficulty, importance, and responsibility, along specialized or administrative lines, requiring considerable specialized or supervisory training and experience, and a thorough knowledge of a specialized subject matter or of administrative work.

The annual rates of compensation for this grade shall be \$2,610, \$2,765, \$2,935, \$3,115, and \$3,305.

GRADE 8

Grade 8 in this service shall include all classes of positions the duties of which are to perform, under general supervision, and with considerable latitude for the exercise of independent judgment, very difficult, important and responsible office work along specialized or administrative lines, requiring considerable specialized or supervisory training and experience, and a thorough knowledge of a specialized subject matter or of administrative work.

The annual rates of compensation for this grade shall be \$2,935, \$3,115, \$3,305, \$3,505, and \$3,705.

GRADE 9

Grade 9 in this service shall include all classes of positions the duties of which are to perform, under general supervision, with wide latitude for the exercise of independent judgment, very difficult, important and responsible office work along specialized or administrative lines, requiring considerable training and experience which has demonstrated capacity for sound independent work and an intimate knowledge of a specialized subject matter or of administrative work.

The annual rates of compensation for this grade shall be \$3,305, \$3,505, \$3,705, \$3,905, and \$4,105.

GRADE 10

Grade 10 in this service shall include all classes of positions the duties of which are to perform, under general supervision,

and with wide latitude for the exercise of independent judgment, highly difficult, important and responsible office work along specialized or administrative lines, requiring somewhat extended training and experience which has demonstrated capacity for sound independent work and an intimate grasp of a specialized subject matter or of administrative work.

The annual rates of compensation for this grade shall be \$3,600, \$3,795, \$3,990, \$4,185, and \$4,380.

GRADE 11

Grade 11 in this service shall include all classes of positions the duties of which are to perform, under general administrative supervision, and with wide latitude for the exercise of independent judgment, office work of marked difficulty, importance and responsibility along specialized or administrative lines, requiring somewhat extended training and experience which has demonstrated important attainments and marked capacity for sound independent action or decision and an intimate grasp of a specialized subject matter or administrative work of marked difficulty.

The annual rates of compensation for this grade shall be \$3,980, \$4,180, \$4,380, \$4,580, and \$4,780.

GRADE 12

Grade 12 in this service shall include all classes of positions the duties of which are to perform, under general administrative supervision, and with wide latitude for the exercise of independent judgment, office work of unusual difficulty, importance and responsibility along specialized or administrative lines, requiring extended training and experience which has demonstrated leadership and attainments of a high order in specialized or administrative work.

The annual rates of compensation for this grade shall be \$4,600, \$4,800, \$5,000, \$5,200, and \$5,400.

GRADE 13

Grade 13 in this service shall include all classes of positions the duties of which are to perform, under administrative direction, and with wide latitude for the exercise of independent judgment, office work of exceptional difficulty, importance and responsibility along specialized or administrative lines requiring extended training and experience which has demonstrated leadership and marked attainments in specialized or administrative work; or in case professional or scientific training is not required, to serve as the assistant head of a major bureau or com-

mensurate organization or to act as head of a small bureau or commensurate organization; or to serve as consulting specialist and to furnish for final executive action expert critical advice on specialized, administrative, or fiscal problems or policies, of exceptional importance.

The annual rates of compensation for this grade shall be \$5,600, \$5,800, \$6,000, \$6,200, and \$6,400.

GRADE 14

Grade 14 in this service shall include all classes of positions the duties of which are to perform, under general administrative direction, and with wide latitude for the exercise of independent judgment, office work of outstanding difficulty, importance and responsibility along specialized or administrative lines, requiring extended training and experience which has demonstrated leadership and exceptional attainments in specialized or administrative work; or, in case professional or scientific training is not required, to serve as the head of a bureau which, considering its size, the kind, variety and degree of importance of the work with which it is charged and the scope and complexity of its problems of administration, is one of the major bureaus of the government; or to serve as the head of a commensurate organization; or to serve as the assistant head of one of the outstanding bureaus or commensurate organizations; or to serve as consultant to a department head or a commission or board and to furnish for final executive action expert critical advice on specialized, administrative, or fiscal matters of outstanding difficulty and importance.

The annual rate of compensation for this grade shall be \$6,500.

CRAFTS AND CUSTODIAL SERVICE

The crafts and custodial service shall include all classes of positions, the duties of which are to perform or supervise custodial, domestic, manual, mechanical, or police or fire protection work involved in the custody, maintenance, and protection of public buildings, premises, equipment and other government property; the construction of public buildings or works; the manufacture and handling of supplies and equipment; the operation of mechanical equipment; the transportation of public officers, employees and property; the transmission of official papers; the caring for the domestic needs of persons in the employ, care or custody of the government; the guarding of persons in the custody of the government; the preservation of law and order and the protection of life and property; or to perform or supervise other work of similar character.

GRADE 1

Grade 1 in this service shall include all classes of positions the duties of which are, under immediate supervision, to serve as messenger boy or messenger girl; or to perform other work not requiring mature physical strength or judgment and involving little responsibility except that of carrying out specific instructions.

The annual rates of compensation for this grade shall be \$720, \$780, \$840, \$900, and \$960.

GRADE 2

Grade 2 in this service shall include all classes of positions the duties of which are, under immediate supervision, to perform manual labor ordinarily required of unskilled laborers, requiring physical strength and endurance but little or no training or experience; or to perform simple routine work requiring little or no experience and little or no skill and involving little responsibility except that of carrying out specific instructions.

The annual rates of compensation for this grade shall be \$1,100, \$1,170, \$1,230, \$1,320, and \$1,410; provided that charwomen working part-time be paid at the rate of fifty cents (50c) an hour and head charwomen at the rate of fifty-five cents (55c) an hour.

GRADE 3

Grade 3 in this service shall include all classes of positions the duties of which are, under immediate supervision, to perform manual labor ordinarily required of skilled laborers, requiring some skill and training or experience; or to perform routine work involving some degree of responsibility and requiring either training or experience to a limited extent or some degree of skill or both.

The annual rates of compensation for this grade shall be \$1,230, \$1,290, \$1,350, \$1,440, and \$1,530.

GRADE 4

Grade 4 in this service shall include all classes of positions the duties of which are to perform, under immediate or general supervision, and with limited latitude for the exercise of independent judgment, somewhat difficult and responsible work requiring moderate crafts or custodial training and experience, and a moderate degree of skill or the ability to supervise manual or custodial work of limited scope.

The annual rates of compensation for this grade shall be \$1,350, \$1,440, \$1,530, \$1,620, and \$1,710.

GRADE 5

Grade 5 in this service shall include all classes of positions the duties of which are to perform, under general supervision, and with moderate latitude for the exercise of independent judgment, moderately difficult, important and responsible work requiring considerable crafts or custodial training and experience, and a substantial degree of somewhat specialized skill or the ability to direct and supervise manual or custodial operations.

The annual rates of compensation for this grade shall be \$1,530, \$1,620, \$1,710, \$1,800, and \$1,890.

GRADE 6

Grade 6 in this service shall include all classes of positions the duties of which are to perform, under general supervision, and with substantial latitude for the exercise of independent judgment, difficult, important and responsible work requiring considerable crafts or custodial training and experience, a good knowledge of a special branch of crafts or custodial work, and a considerable degree of specialized skill or the ability to direct and supervise manual custodial operations of some complexity.

The annual rates of compensation for this grade shall be \$1,710, \$1,800, \$1,890, \$1,980, and \$2,070.

GRADE 7

Grade 7 in this service shall include all classes of positions the duties of which are to perform, under general supervision, and with considerable latitude for the exercise of independent judgment, work of considerable difficulty, importance and responsibility requiring thorough specialized crafts or custodial training and experience, a thorough knowledge of a special branch of crafts or custodial work, and a high degree of specialized skill or the ability to direct and supervise manual, mechanical or custodial operations of complexity.

The annual rates of compensation for this grade shall be \$1,890, \$1,980, \$2,070, \$2,185, and \$2,315.

GRADE 8

Grade 8 in this service shall include all classes of positions the duties of which are to perform, under general supervision, and with considerable latitude for the exercise of independent judgment, very difficult, important and responsible crafts or custodial work along specialized or supervisory lines, requiring thorough specialized training and experience, a thorough knowl-

edge of a special branch of crafts or custodial work, and unusual specialized skill or the ability to lay out, direct and supervise complex crafts or custodial operations.

The annual rates of compensation for this grade shall be \$2,070, \$2,185, \$2,315, \$2,460, and \$2,610.

GRADE 9

Grade 9 in this service shall include all classes of positions the duties of which are to perform, under general supervision, with wide latitude for the exercise of independent judgment, highly difficult, important and responsible crafts and custodial work along specialized or supervisory lines, requiring thorough specialized training and experience, an intimate knowledge of a special branch of crafts or custodial work, and exceptional specialized skill or the ability to lay out, direct and supervise complex crafts or custodial operations.

The annual rates of compensation for this grade shall be \$2,315, \$2,460, \$2,610, \$2,765, and \$2,935.

GRADE 10

Grade 10 in this service shall include all classes of positions the duties of which are to perform, under general supervision, with wide latitude for the exercise of independent judgment, highly difficult, important and responsible crafts or custodial work along specialized or supervisory lines, requiring somewhat extended training and experience which has demonstrated capacity for sound independent action or decision and an intimate grasp of a special and highly difficult or intricate branch of crafts or custodial work.

The annual rates of compensation for this grade shall be \$2,610, \$2,765, \$2,935, \$3,115, and \$3,305.

GRADE 11

Grade 11 in this service shall include all classes of positions the duties of which are to perform, under general direction, with wide latitude for the exercise of independent judgment, highly difficult crafts or custodial work of marked importance and responsibility along highly technical lines requiring somewhat extended training and experience which has demonstrated marked capacity for sound independent action or decision and an intimate grasp of a special and highly difficult or intricate branch of crafts or custodial work.

The annual rates of compensation for this grade shall be \$2,935, \$3,115, \$3,305, \$3,505, and \$3,705.

GRADE 12

Grade 12 in this service shall include all classes of positions the duties of which are to perform, under general direction, with wide latitude for the exercise of independent judgment, highly difficult crafts or custodial work of unusual importance and responsibility along highly technical lines, requiring extended training and experience which has demonstrated an intimate grasp of a special and highly difficult or intricate branch of crafts or custodial work, and leadership and attainments of a high order in the planning, direction, and control of large and complex crafts or custodial operations.

The annual rates of compensation for this grade shall be \$3,305, \$3,505, \$3,705, \$3,905, and \$4,105.

GRADE 13

Grade 13 in this service shall include all classes of positions the duties of which are to perform, under general direction, with wide latitude for the exercise of independent judgment, crafts or custodial work of exceptional difficulty, importance and responsibility along highly technical lines, requiring extended training and experience which has demonstrated an intimate grasp of a special and unusually difficult or intricate branch of crafts or custodial work, and leadership and marked attainments in the planning, direction and control of large and complex crafts or custodial operations.

The annual rates of compensation for this grade shall be \$3,600, \$3,795, \$3,990, \$4,185, and \$4,380.

GRADE 14

Grade 14 in this service shall include all classes of positions the duties of which are to perform, under general direction, with wide latitude for the exercise of independent judgment, crafts or custodial work of outstanding difficulty, importance and responsibility along highly technical lines requiring extended training and experience which has demonstrated an intimate grasp of a special and exceptionally difficult or intricate branch of crafts or custodial work, and leadership and outstanding attainments in the planning, direction, and control of large and complex crafts or custodial operations.

The annual rates of compensation for this grade shall be \$3,980, \$4,180, \$4,380, \$4,580, and \$4,780.

GRADE 15

Grade 15 in this service shall include all classes of positions the duties of which are to perform, under general direction,

with wide latitude for the exercise of independent judgment, the most difficult, important and responsible crafts or custodial work along highly technical lines, requiring extended training and experience which has demonstrated an intimate grasp of a special branch of crafts or custodial work of outstanding difficulty and intricacy, and leadership and outstanding attainments in the planning, direction and control of crafts or custodial operations of great complexity and scope.

The annual rates of compensation for this grade shall be \$4,600, \$4,800, \$5,000, \$5,200, and \$5,400.

INSPECTIONAL AND INVESTIGATIONAL SERVICE

The inspectional and investigational service shall include all classes of positions the duties of which are to investigate and report upon violations of the laws of the territory or to inspect or examine persons, things, or records for the purpose of preventing such violations; or to observe, analyze and report on commodities, machinery, materials, appliances, or equipment or on engineering or construction work or on manufacturing, operating, or marketing practices and processes or on conditions and services, for the purpose of determining or insuring compliance with contracts, specifications, laws, or regulations, or with fixed standards governing sanitation, safety, efficiency, or quality; or to perform, supervise, or administer inspectional and investigational work. This service shall not include classes of positions the principal qualification requirements of which cause them to fall in one of the other services contained in these compensation schedules.

GRADE 1

Grade 1 in this service shall include all classes of positions the duties of which are to perform, under immediate or general supervision, and with limited latitude for the exercise of independent judgment, inspectional or investigational work which, in comparison with all other grades of work in this service, is simpler, more routine, and of minor responsibility, but which requires some training and experience and a working knowledge of a special subject matter or procedure.

The annual rates of compensation for this grade shall be \$1,650, \$1,750, \$1,850, \$1,960, and \$2,070.

GRADE 2

Grade 2 in this service shall include all classes of positions the duties of which are to perform, under immediate or general supervision, and with some latitude for the exercise of independent judgment as to the details of the work, inspectional or

investigational work which, in comparison with all other grades of work in this service, is limited in responsibility and difficulty, and which requires moderate training and experience and a good knowledge of a special subject matter and of inspectional or investigational procedure and practice.

The annual rates of compensation for this grade shall be \$1,850, \$1,960, \$2,070, \$2,185, and \$2,315.

GRADE 3

Grade 3 in this service shall include all classes of positions the duties of which are to perform, under general supervision, and with latitude for the exercise of independent judgment as to the details of the work, inspectional or investigational work which, in comparison with all other grades of work in this service, is moderately difficult, important and responsible, and which requires considerable training and experience and a broad knowledge of a special subject matter and of inspectional or investigational procedure and practice.

The annual rates of compensation for this grade shall be \$2,070, \$2,185, \$2,315, \$2,460, and \$2,610.

GRADE 4

Grade 4 in this service shall include all classes of positions the duties of which are to perform, under general supervision, and with considerable latitude for the exercise of independent judgment, inspectional or investigational work which, in comparison with all other grades of work in this service, is important, difficult, and responsible, and which requires considerable training and experience, a good knowledge of a specialized and complex subject matter and a thorough knowledge of inspectional or investigational procedure and practice.

The annual rates of compensation for this grade shall be \$2,315, \$2,460, \$2,610, \$2,765, and \$2,935.

GRADE 5

Grade 5 in this service shall include all classes of positions the duties of which are to perform, under general supervision, and with considerable latitude for the exercise of independent judgment, inspectional or investigational work which, in comparison with all other grades of work in this service, is of considerable importance, difficulty and responsibility, and which requires considerable specialized training and experience and a thorough knowledge of a specialized and complex subject matter and of inspectional or investigational procedure and practice.

The annual rates of compensation for this grade shall be \$2,610, \$2,765, \$2,935, \$3,115, and \$3,305.

GRADE 6

Grade 6 in this service shall include all classes of positions the duties of which are to perform, under general supervision, and with considerable latitude for the exercise of independent judgment, inspectional or investigational work which, in comparison with all other grades of work in this service, is very difficult, important and responsible, and which requires considerable specialized training and a comprehensive knowledge of a specialized and complex subject matter and of inspectional or investigational procedure and practice.

The annual rates of compensation for this grade shall be \$2,935, \$3,115, \$3,305, \$3,505, and \$3,705.

GRADE 7

Grade 7 in this service shall include all classes of positions the duties of which are to perform, under general supervision, and with wide latitude for the exercise of independent judgment, inspectional or investigational work which, in comparison with all other grades of work in this service, is very difficult, important and responsible, and which requires considerable specialized training or experience which has demonstrated a capacity for sound independent work and an intimate knowledge of a specialized and complex subject matter and of inspectional or investigational procedure and practice.

The annual rates of compensation for this grade shall be \$3,305, \$3,505, \$3,705, \$3,905, and \$4,105.

GRADE 8

Grade 8 in this service shall include all classes of positions the duties of which are to perform, under general supervision, and with wide latitude for the exercise of independent judgment, inspectional or investigational work which, in comparison with all other grades of work in this service, is highly difficult, important and responsible, and which requires somewhat extended specialized training and experience which has demonstrated capacity for sound independent work and an intimate grasp of a specialized and complex subject matter and of inspectional or investigational procedure and practice.

The annual rates of compensation for this grade shall be \$3,600, \$3,795, \$3,990, \$4,185, and \$4,380.

GRADE 9

Grade 9 in this service shall include all classes of positions the duties of which are to perform, under general administrative supervision and with wide latitude for the exercise of independent judgment, inspectional or investigational work which, in comparison with all other grades of work in this service, is of marked difficulty, importance and responsibility, and which requires somewhat extended specialized training and experience which has demonstrated important attainments, marked capacity for sound independent work, and an intimate grasp of a specialized and complex subject matter of marked difficulty and of inspectional or investigational procedure and practice.

The annual rates of compensation for this grade shall be \$3,980, \$4,180, \$4,380, \$4,580, and \$4,780.

GRADE 10

Grade 10 in this service shall include all classes of positions the duties of which are to perform, under general administrative supervision, and with very wide latitude for the exercise of independent judgment, inspectional or investigational work which, in comparison with all other grades of work in this service, is of unusual difficulty, importance and responsibility, and which requires extended specialized training and experience which has demonstrated leadership, attainments of a high order, and an intimate knowledge of an unusually difficult, specialized and complex subject matter and of inspectional or investigational procedure and practice.

The annual rates of compensation for this grade shall be \$4,600, \$4,800, \$5,000, \$5,200, and \$5,400.

GRADE 11

Grade 11 in this service shall include all classes of positions the duties of which are to perform, under administrative direction, and with very wide latitude for the exercise of independent judgment, inspectional or investigational work which, in comparison with all other grades of work in this service, is exceptionally difficult, important and responsible, and which requires extended specialized training and experience which has demonstrated leadership, marked attainments and an intimate knowledge of an exceptionally difficult, specialized and complex subject matter and of inspectional or investigational procedure and practice; or to serve as the assistant head of a major inspectional or investigative bureau or commensurate organization, or as the head of a small inspectional or investigative bureau or commensurate organization.

The annual rates of compensation for this grade shall be \$5,600, \$5,800, \$6,000, \$6,200, and \$6,400.

GRADE 12

Grade 12 in this service shall include all classes of positions the duties of which are to perform, under general administrative direction, and with wide latitude for the exercise of independent judgment, inspectional or investigational work which, in comparison with all other grades of work in this service is of outstanding difficulty, importance and responsibility and which requires extended specialized training and experience which has demonstrated leadership, exceptional attainments and an intimate knowledge of a specialized and complex subject matter of outstanding difficulty and of inspectional or investigational procedure and practice; or to serve as the head of an inspectional or investigative bureau which, considering its size, the kind, variety and degree of importance of the work with which it is charged, and the scope and complexity of its problems of administration, is one of the major bureaus of the government; or to serve as the head of a commensurate organization; or to serve as the assistant head of one of the outstanding bureaus or commensurate organizations.

The annual rate of compensation for this grade shall be \$6,500.

PART II

CLASSIFICATION FOR THE CITY AND COUNTY OF HONOLULU

[Sec. 157.12.] Section 12. **Scope of this Act.** This Act shall apply to all positions the compensation for which is paid directly from funds under the control of the City and County of Honolulu or any independent board or commission thereof, including positions the compensation for which is specifically fixed by any other law; provided, however, that this Act shall not apply to:

- (1) Positions specifically exempted from the provisions of this Act by any other law;
- (2) Positions of officers elected by public vote;
- (3) Positions of heads of departments whose appointments are made by the mayor with the approval of the board of supervisors and the position of manager of the board of water supply; provided, that the positions of deputy city and county attorneys or assistant public prosecutors may be exempted from classification under this Act by order of the mayor, approved by the board of supervisors;

- (4) Positions of members of any board or commission;
- (5) Positions of members of the police department whose salaries are established by Act 78 of the Session Laws of Hawaii 1937, as amended;
- (6) Positions of members of the fire department whose salaries are established by Act 78 of the Session Laws of Hawaii 1937, as amended;
- (7) Positions filled by inmates, patients, or students in city and county institutions or in the schools;
- (8) Positions of district magistrates, jurors, jury commissioners and witnesses;
- (9) Positions filled by persons employed by contract to render a special or temporary service for the city and county where such contract is certified by the board to be for a service which from its nature can better be performed by other than a classified employee; and
- (10) Positions filled by persons employed locally on a fee, contract or piecework basis who may lawfully perform their duties concurrently with their private business or profession or other private employment and whose duties require only a portion of their time, if it is impracticable to ascertain or anticipate the portion of time devoted to the service of the city and county.

[Sec. 157.13.] Section 13. **Provisions of previous sections applicable; charter provisions subject to this Act.** All of the provisions of sections 2, 3, 5 and 6 (excepting paragraph I of subsection (c) thereof) and of section 7 (excepting subsection (1) thereof) and of sections 8 to 11, inclusive, of this Act not by their terms inapplicable shall apply with equal force to the City and County of Honolulu as the same apply to the Territory of Hawaii and for the purposes of Part II of this Act and for the purposes of this section, the term "Territory of Hawaii" or "territory" or any term of like import whenever it appears in said sections shall include and mean the City and County of Honolulu; the term "governor" shall mean the mayor of said city and county; the term "legislature" shall mean the board of supervisors of said city and county; and the terms "personnel classification board" and "civil service commission", and other terms of like import, shall mean the civil service commission of said city and county; provided, however that notwithstanding any other provisions of this Act to the contrary;

(1) The compensation of no employee of the city and county, or of any independent board not dependent for its funds upon the board of supervisors of the city and county, who is an in-

cumbent on the date of the passage of this Act, shall be reduced under this Act below the rate of compensation for his position which would be in effect on the day the compensation schedules become effective with respect to the city and county if this Act had not been enacted, so long as he continues to serve in the same position with substantially the same duties and responsibilities.

(2) The annual or other increments allowable from time to time for efficient service under section 8, to any such employee who was an incumbent on the date of the passage of this Act, shall, so long as he shall continue to serve in the same position with substantially the same duties and responsibilities, be computed and paid upon the basis of the compensation schedules which were in effect in said city and county for said position immediately prior to the effective date of this Act.

(3) If, in the initial classification under this Act of positions in the service of said city and county or any such independent board, a position is allocated to a grade higher than grade 9 of the clerical, administrative and fiscal service or higher than any grade in any other service which carries rates of compensation equivalent to said grade 9, the compensation for such position shall be fixed in accordance with the compensation schedules in effect in the city and county for said position and grade immediately prior to the effective date of this Act.

In the event of any inconsistency between this Act and the provisions of sections 3067.08 to 3067.10 or any other provisions of chapter 88 of the Revised Laws of Hawaii 1935, as amended, the provisions of this Act shall control. The mayor, board of supervisors, controller, any independent board having control of its own funds, and other officers of the city and county charged with the performance of any duties concerning the enforcement of the provisions of this Act, shall have power to perform such acts at such times and in such manner as may be necessary to give full effect to the provisions of this Act, any provision of said chapter 88, as amended, or of any other law to the contrary notwithstanding.

PART III

CLASSIFICATION FOR THE COUNTY OF MAUI

[Sec. 157.14.] Section 14. **Scope of this Act.** This Act shall apply to all positions the compensation for which is paid directly from funds under the control of the County of Maui or any independent board or commission thereof, including positions the compensation for which is specifically fixed by any other law; provided, however, that this Act shall not apply to:

(1) Positions specifically exempted from the provisions of this Act by any other law;

(2) Positions of officers elected by public vote;

(3) Positions of heads of departments whose appointments are made by the chairman of the board of supervisors with the approval of the board of supervisors; provided, that the positions of deputy county attorneys may be exempted from classification under this Act by order of said chairman, approved by the board of supervisors;

(4) Positions of members of any board or commission;

(5) Positions of members of the police department whose salaries are fixed by law;

(6) Positions of members of the fire department whose salaries are fixed by law;

(7) Positions filled by inmates, patients, or students in county institutions or in the schools;

(8) Positions of district magistrates, jurors, jury commissioners and witnesses;

(9) Positions filled by persons employed by contract to render a special or temporary service for the county where such contract is certified by the board to be for a service which from its nature can better be performed by other than a classified employee; and

(10) Positions filled by persons employed locally on a fee, contract or piecework basis who may lawfully perform their duties concurrently with their private business or profession or other private employment and whose duties require only a portion of their time, if it is impracticable to ascertain or anticipate the portion of time devoted to the service of the county.

[Sec. 157.15.] Section 15. Provisions of previous sections applicable. All of the provisions of sections 2, 3, 5 and 6 (excepting paragraph I of subsection (c) thereof) and of section 7 (excepting subsection (1) thereof) and of sections 8 to 11, inclusive, of this Act shall, unless by their terms expressly inapplicable, apply to the County of Maui and for the purposes of Part III of this Act and for the purposes of this section, the term "Territory of Hawaii" or "territory" or any term of like import as used in Part I, shall in such event mean and include the County of Maui; the term "governor" shall mean the chairman of the board of supervisors of said county; the term "legislature" shall mean the board of supervisors of said county; and the terms "personnel classification board" and "civil service commission", and other terms of like import, shall mean the civil service commission of said county.

PART IV

CLASSIFICATION FOR THE COUNTY OF KAUAI

[Sec. 157.16.] Section 16. **Scope of this Act.** This Act shall apply to all positions the compensation for which is paid directly from county funds; provided, however, that this Act shall not apply to:

(1) Positions specifically exempted from the provisions of this Act by any other law;

(2) Positions of officers elected by public vote;

(3) Positions of heads of departments whose appointments are made by the chairman of the board of supervisors with the approval of the board of supervisors; provided, that the positions of deputy county attorneys may be exempted from classification under this Act by order of said chairman, approved by the board of supervisors;

(4) Positions the compensation for which is specifically fixed by law;

(5) Positions of members of any board or commission;

(6) Positions of members of the police department;

(7) Positions of members of the fire department;

(8) Positions of district magistrates, jurors, jury commissioners and witnesses;

(9) Positions filled by inmates, patients, or students in county institutions or in the schools; and

(10) Positions filled by persons employed locally on a fee, contract or piecework basis who may lawfully perform their duties concurrently with their private business or profession or other private employment and whose duties require only a portion of their time, if it is impracticable to ascertain or anticipate the portion of time devoted to the service of the county.

[Sec. 157.17.] Section 17. **Provisions of previous sections applicable.** All of the provisions of sections 2, 3, 5 and 6 (excepting paragraph I of subsection (c) thereof) and of section 7 (excepting subsection (1) thereof) and of sections 8 to 11, inclusive, of this Act shall, unless by their terms expressly inapplicable, apply to the County of Kauai and for the purposes of Part IV of this Act and for the purposes of this section, the term "Territory of Hawaii" or "territory" or any term of like import as used in Part I, shall in such event mean and include the County of Kauai; the term "governor" shall mean the chairman of the board of supervisors of said county; the term "legislature" shall mean the board of supervisors of said county; and the terms "personnel classification board" and "civil service commission", and other terms of like import shall mean the civil service commission of said county.

PART V

CLASSIFICATION FOR THE COUNTY OF HAWAII

[Sec. 157.18.] Section 18. **Scope of this Act.** This Act shall apply to all positions the compensation for which is paid directly from funds under the control of the County of Hawaii or any independent board or commission thereof, including positions the compensation for which is specifically fixed by any other law; provided, however, that this Act shall not apply to:

(1) Positions specifically exempted from the provisions of this Act by any other law;

(2) Positions of officers elected by public vote;

(3) Positions of heads of departments whose appointments are made by the chairman of the board of supervisors with the approval of the board of supervisors; provided, that the positions of deputy county attorneys may be exempted from classification under this Act by order of said chairman, approved by the board of supervisors;

(4) Positions of members of any board or commission;

(5) Positions filled by inmates, patients, or students in county institutions or in the schools;

(6) Positions of district magistrates, jurors, jury commissioners and witnesses;

(7) Positions filled by persons employed by contract to render a special or temporary service for the county where such contract is certified by the board to be for a service which from its nature can better be performed by other than a classified employee;

(8) Positions filled by persons employed locally on a fee, contract or piecework basis who may lawfully perform their duties concurrently with their private business or profession or other private employment and whose duties require only a portion of their time, if it is impracticable to ascertain or anticipate the portion of time devoted to the service of the county.

[Sec. 157.19.] Section 19. **Provisions of previous sections applicable.** All of the provisions of sections 2, 3, 5 and 6 (excepting paragraph I of subsection (c) thereof) and of section 7 (excepting subsection (1) thereof) and of sections 8 to 11, inclusive, of this Act shall, unless by their terms expressly inapplicable, apply to the County of Hawaii and for the purposes of Part V of this Act and for the purposes of this section, the term "Territory of Hawaii" or "territory" or any term of like import as used in Part I, shall in such event mean and include the

County of Hawaii; the term "governor" shall mean the chairman of the board of supervisors of said county; the term "legislature" shall mean the board of supervisors of said county; and the terms "personnel classification board" and "civil service commission", and other terms of like import, shall mean the civil service commission of said county.

PART VI

MISCELLANEOUS PROVISIONS

[Sec. 157.20.] Section 20. **Appropriation; transfer of existing classification records.** The sum of nine hundred thousand dollars (\$900,000.00) is hereby appropriated out of any money in the general fund of the Territory of Hawaii for the following purposes:

(1) To meet all necessary expenses for salaries, current expenses and equipment in carrying out the provisions of Part I of this Act;

(2) To add, upon order of the classification board, to any amounts appropriated for personal services for each department for the biennium ending June 30, 1943, under the general appropriation Act for said biennium, sufficient sums to insure that the classification of positions and the payment of compensation of officers and employees of the territory made and determined under the terms of this Act, as provided for in Part I, shall become fully effective; provided, however, that all appropriations made hereunder shall lapse as of June 30, 1943.

When the head of a department finds from time to time during the biennium that funds appropriated in the general appropriation Act for the use of such department will not be required for the specific purposes to which they have been allocated and would lapse at the end of the biennium, such funds shall, with the approval of the governor, then be expended for the purposes of this section, in the same manner as hereinbefore described.

As soon as practicable after this Act becomes law, all records in the possession or control of the bureau of the budget of the territory, or duplicates thereof, relating to personnel classification and necessary to enable the territorial personnel classification board to perform its duties under this Act, shall be transferred to the possession or control of said board. The director of said bureau and all other officers of the territory concerned shall cooperate with said board to the end that the transition to the classification system provided for by this Act shall be made as expeditiously and efficiently as possible.

[Sec. 157.21.] Section 21. **Services to political subdivisions.** Subject to the rules of the territorial personnel classification board, the director of classification may enter into agreements with any political subdivision of the territory to furnish services and facilities of the territorial board to such political subdivision in the administration of the provisions of this Act. Any such agreement shall provide for the reimbursement to the territory of the reasonable cost of the services and facilities furnished, as determined by the director of classification. All political subdivisions of the territory are hereby authorized to enter into such agreements.

[Sec. 157.22.] Section 22. **Short title.** The short title of this Act shall be "The Classification Act of 1941".

Section 23. **Repeal of conflicting provisions.** All provisions of law or of any executive order in conflict with or inconsistent with the provisions of this Act are superseded by the provisions hereof, to the extent of such conflict or inconsistency.

Section 24. **Severability.** If any portion of this Act or of any other law as amended by this Act, or its application to any person or circumstances, shall be held to be invalid, the remainder of this Act or of said other law, or the application of such portion to other persons or circumstances, shall not be affected.

Section 25. **Effective date.** Except as herein otherwise provided, this Act shall take effect upon the date of its approval; provided, however, that the salary schedules set forth herein or herein authorized to be adopted by the personnel classification board for the territory shall take effect November 1, 1941; provided further:

(1) That Part II of this Act (insofar as it relates to the City and County of Honolulu) shall take effect upon the date of its approval; provided, however, that the salary schedules set forth herein or herein authorized to be adopted by the personnel classification board of said city and county shall take effect November 1, 1941; and

(2) That Part III of this Act (insofar as it relates to the County of Maui) shall take effect upon the date of its approval; provided, however, that the salary schedules set forth herein or herein authorized to be adopted by the personnel classification board for the County of Maui shall take effect November 1, 1941; and

(3) That Part IV of this Act (insofar as it relates to the County of Kauai) shall take effect upon the date of its approval; provided, however, that the salary schedules set forth

herein or herein authorized to be adopted by the personnel classification board for the County of Kauai shall take effect November 1, 1941; and

(4) That Part V of this Act (insofar as it relates to the County of Hawaii) shall not take effect with respect to such county unless and until the board of supervisors of such county shall by ordinance expressly accept the provisions of this Act and of said Part V and declare the same effective with respect to such county, in which event this Act and said Part V shall become effective with respect to, and shall apply to, such county as of such date as shall be provided in said ordinance.

In said ordinance, provision may be made by the board of supervisors for such arbitrary, special and other adjustments of classification and compensation as may be reasonably necessary or proper to provide for an orderly and reasonably equitable transition from the preexisting system of classification and compensation schedules and rates to those provided for by this Act.

In the event that the board of supervisors of said County of Hawaii shall so elect to accept the provisions of this Act and of said Part V, then such portions of the provisions of Act 55 of the Special Session Laws of Hawaii 1941 as are inconsistent with this Act shall be superseded by this Act upon the date as of which Part V of this Act becomes effective with respect to said county.

(Approved November 1, 1941.) **H. B. 49, Act 88.**

Title II. AGRICULTURE AND FORESTRY.

CHAPTER 11. FISH AND FISHING, GENERAL.

FISHING BY NON-CITIZENS.

[A-6] An Act to Amend Section 368 of the Revised Laws of Hawaii 1935, as Amended by Act 279 of the Session Laws of Hawaii 1941, Relating to Certain Restrictions of Fishing by Non-Citizens.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 368 of the Revised Laws of Hawaii 1935, as amended by Act 279 (Series A-17) of the Session Laws of Hawaii 1941, is hereby further amended to read as follows:

“Sec. 368. Fishing by non-citizens restricted. It is declared unlawful, within any of the rivers or harbors or other inland waters of the Territory of Hawaii or within one geographical mile seaward of high water mark, for any person not a citizen of the United States or eligible to become a citizen, whether or not he is a commercial fisherman, to take, kill or pursue any fish, turtle or squid by means of any spear, arrow gun or hook attached to any spear, or to take, kill or pursue any fish, turtle or squid by means of a hukilau, gill, purse or drag net; provided, however, that nothing herein shall be construed to prohibit any commercial fisherman from taking bait fish as in section 335 provided. Whosoever violates the provisions of this section shall be punished by a fine of not more than twenty-five dollars or by imprisonment for not more than twenty days, or by both fine and imprisonment.” [L. 1911, c. 38, s. 1; R. L. 1935, s. 383; am. L. 1941, c. 223, s. 1; am. Sp. L. 1941, c. 44, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved October 9, 1941.) **H. B. 33, Act 44.**

FISHING IN WAIKIKI CANALS.

[A-7] An Act to Amend Section 384 of the Revised Laws of Hawaii 1935, as Amended, Relating to Fishing in Waikiki Canals.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 384 of the Revised Laws of Hawaii 1935, as amended, is hereby further amended to read as follows:

“Sec. 384. Fishing in Waikiki Canals; penalty. It shall be unlawful for any person, except an owner or operator of a fish pond to whom the president of the board of commissioners of agriculture and forestry may have issued a permit, under such rules and regulations as said board may prescribe, to use nets for the catching of pua or other small fish for the purpose of stocking such fish pond, to fish in the waters of the Waikiki Reclamation Canal and the drainage canal constructed in connection with Kapiolani Boulevard with any device whatsoever except one line, or one rod and line, which line shall in no case have more than two hooks.

“Any person who shall violate the provisions of this section shall, upon conviction, be fined not more than one hundred

dollars or be imprisoned for not more than six months." [L. 1923, c. 41, ss. 1 and 2; R. L. 1935, s. 384; am. L. 1935, c. 39, s. 1; am. Sp. L. 1941, c. 86, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved October 30, 1941.) S. B. 31, Act 86.

Title V. EDUCATION.

CHAPTER 20. MAINTENANCE OF PUBLIC SCHOOLS.

A24-A25

17

SINGLE SALARY SCHEDULE.

[A-8] An Act to Amend Chapter 20 of the Revised Laws of Hawaii 1935, as Amended, so as to Provide for a Single Salary Schedule for the Public School System, to Provide for Transfers Thereto from the Existing Salary Schedule, to Provide a Minimum Increase in Salary, and Making Appropriations for the Purposes of This Act.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 20 of the Revised Laws of Hawaii 1935, as amended, is hereby further amended in the following respects:

1. By adding thereto, at the beginning thereof, a new section, to be numbered 769, to read as follows:

"Sec. 769. Definitions. As used in sections 770 to 770G, inclusive, unless the context otherwise indicates, the following terms have the following meanings:

"1. 'Department' means the department of public instruction.

"2. 'Commissioners' means the commissioners of public instruction.

"3. 'Incumbent teachers' means teachers in the service of the department on October 31, 1941, and teachers on authorized leave on said date who return to the service of the department thereafter before the expiration of such leave or any authorized extension thereof.

"4. 'Old schedule' means the schedule mentioned in section 770, Revised Laws of Hawaii 1935, as amended herein.

"5. 'New schedule' means the single salary schedule set forth in section 770A.

"6. 'New appointees' means any teachers and other employees in the department, included in the new schedule, who are employed in the service of the department after November 1, 1941, and who were not in such service on said date.

"7. 'Classes'. Where classes I, II and III, with respect to teachers, are mentioned, the following definitions shall apply: Any teacher who holds: (a) a certificate based on less than four years of collegiate education, is eligible for class I; (b) a certificate based on four acceptable years of collegiate education, is eligible for class II; and (c) a certificate based on five acceptable years of collegiate education, including one year of graduate study, is eligible for class III."

2. By amending section 770 thereof, as amended, to read as follows:

"Sec. 770. Salary schedule. The salary schedule fixing the pay of supervisors, principals, teachers, and others, adopted by the department of public instruction, as set forth in pamphlet entitled 'School Code', published by the department of public instruction January 1, 1935, as the same has been amended by Act 160 of the Session Laws of Hawaii 1939, shall remain in effect in its present form until such time as all incumbent teachers now in service reach the maximum according to the contracts under which they were severally engaged." [L. 1911, c. 88, s. 1; am. L. 1917, c. 114, s. 1; am. L. 1919, c. 107, s. 1; am. L. 1921, c. 88, s. 1; L. 1917, c. 114, s. 1; am. L. 1919, c. 107, s. 1; am. L. 1921, c. 245, s. 1; L. 1923, c. 205, s. 1; am. L. 1925, c. 232, s. 1; am. L. 1927, c. 248, s. 1; am. L. 1929, c. 105, s. 1; am. L. 1932, 2d, c. 57, s. 1; R. L. 1935, s. 770; am. L. 1941, c. 197, s. 1; am. Sp. L. 1941, c. 83, s. 2.]

3. By adding thereto the following new sections:

"Sec. 770A. New schedule. A single salary schedule is hereby established, effective on and after November 1, 1941, which shall apply to all new appointees, and to such incumbent teachers as shall elect to be transferred from the old schedule to the new schedule in the manner hereinafter provided. Said new schedule shall contain the respective classes, with the respective monthly salary ratings for each class based upon years of experience or other qualifications, and be otherwise subject to the regulations, set forth in this and the following sections, and shall be as follows:

"1. TEACHERS' SCHEDULE

Years of Experience	CLASS I Non-Collegiate Certificate	CLASS II Collegiate Certificate	CLASS III Professional Certificate
1	\$100	\$100	\$110
2	105	105	115
3	110	110	120
4	115	115	125
5	120	120	130
6	125	125	140
7	130	130	150
8	135	140	160
9	140	150	170
10	145	160	180
11	150	170	190
12	160	180	200
20	165		
25	170		

"2. PRINCIPALS' SCHEDULE

Principals shall be paid on the above classification plus the following differentials:

Number of Teachers Under Principals' Supervision (Figures being Inclusive)	Differential
1-5	\$ 40
6-10	60
11-15	85
16-25	100
26-35	110
36-45	120
46-55	130
56-65	140
66-75	150
76-85	160
86-95	170
96-105	180
106-115	190
116-125 or more	200

"3. SUPERVISING PRINCIPALS' SCHEDULE

Supervising principals shall be paid on the teachers' classification plus the following differentials:

Number of Teachers including Principals under Supervision (Figures being Inclusive)	Differential
1-400	\$180
401-800	190
801 and over	200

"4. Territorial vocational supervisors shall be paid on the following schedule:

1st Year	2nd Year	3rd Year	4th Year	5th Year
\$250	\$275	\$300	\$325	\$350

"5. Vice-principals authorized by resolution of the commissioners shall be paid on the teachers' schedule classification plus \$25 per month.

"6. Substitute teachers shall be paid per day as follows:

Non-Collegiate Certificate	Collegiate Certificate	Professional Certificate
\$5	\$6	\$7

"Sec. 770B. Change of classification. Any teacher serving in classes I or II, who qualifies for a class requiring more professional preparation shall be transferred to the latter class schedule as of the beginning of the next school year and shall receive the salary on that schedule which corresponds to the service allowed by the department, provided that the increase may not be more than one salary rating above that to which said teacher would have been entitled under his former classification.

"Sec. 770C. Vocational and special teachers. Vocational teachers and other teachers with special assignments qualifying for the new schedule shall be rated the same as regular teachers, provided that in cases where hours of service are longer, or the yearly period of service is longer than the regular teaching year, or the responsibilities are greater, the rate may be increased proportionately by the department, and provided further, that, in determining the classification and rating of such teachers, the department, in its discretion, may allow credit for practical experience.

"Sec. 770D. Application of new schedule. The department is authorized and directed to place the provisions of the new schedule into operation in the following order:

"1. The salary rating of any teacher whose initial appointment becomes effective on or after November 1, 1941 shall be set in accordance with the new schedule;

"2. Any incumbent teacher who qualifies for any class of the new schedule may be transferred to the appropriate class of the new schedule, receiving the same prior service credit to which such teacher would be entitled under the old schedule.

"Sec. 770E. Transfer limitations. In making transfers from the old schedule to the new schedule, no teacher shall be advanced more than one salary rating above that to which such teacher would have been entitled under the old schedule. If, by reason of limited service, a teacher's rating on the new schedule is lower than the rating attained on the old schedule, said teacher shall remain at the former rating until the period of service entitles him to an increase under the provisions of the new schedule.

"Sec. 770F. Transfers to new schedule. Incumbent teachers who have served at least one year at the maximum of the division of the old schedule on which they are now serving, and eligible by reason of classification to receive higher salary ratings on the new schedule, shall be transferred on November 1, 1941, to the new schedule. Until incumbent teachers shall have reached their maximums on the old schedule, no teacher on the old schedule shall be transferred to the new schedule except on September 1 of any particular year, and no such transfer shall be made unless such teacher, prior to July 1 of such year, has made written request to the department for such transfer. Former teachers who resigned from said department and who returned to service will automatically be placed on the new schedule. Incumbent teachers who do not request transfer to the new schedule will automatically be placed on the new schedule after serving one year at the maximum on the old schedule. If the class for which such teacher shall qualify at the time of transfer does not provide a maximum salary equal to or greater than the maximum attained by said teacher on the old schedule, said teacher shall be placed in a class of the new schedule in which the maximum rating is at least equal to the salary rating attained on the old schedule, said teacher remaining at his former salary rating until such time as he shall qualify for the provisions of the class in the new schedule to which he was so transferred.

"Sec. 770G. [Reclassification not to cause reduction.] No incumbent teacher is to receive a reduction in salary by reason of the reclassification as set forth in this Act."

Section 2. There is hereby appropriated from the general funds of the territory, not otherwise appropriated, the sum of three hundred and thirty-five thousand dollars (\$335,000.00) for the carrying out of the provisions of this Act for the period from November 1, 1941 to June 30, 1943, which shall be in addition to any other appropriations made for the department of public instruction by any other Act of the territorial legislature for the 1941-1943 biennium.

Section 3. Any teacher not receiving a minimum \$10 a month increase in his salary under the old or new schedule for the period from November 1, 1941 to June 30, 1943, shall receive an emergency increase of a sufficient sum to provide a \$10 a month increase for said period and the sum of three hundred and sixty-four thousand dollars (\$364,000.00) is hereby appropriated for the purposes of this section.

Section 4. This Act shall take effect upon its approval.

(Approved October 29, 1941.) **H. B. 7, Act 83.**

CHAPTER 23. UNIVERSITY OF HAWAII.

[A-9] An Act to Amend Chapter 23 of the Revised Laws of Hawaii 1935, as Amended, by Adding Thereto a New Section to be Numbered and Known as Section 824-A, Relating to the University of Hawaii and the Exchange of Members of the Faculties Thereof with Members of the Faculties of Colleges or Universities Located Without the Territory or the United States.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 23 of the Revised Laws of Hawaii 1935, as amended, is hereby further amended by adding thereto a new section to be numbered and known as section 824-A, and to read as follows:

"Sec. 824-A. Exchange privileges. The board of regents of the University of Hawaii is authorized to contract for the exchange of members of the faculties of the university with members of the faculties of colleges or universities located without the Territory or the United States. Local members of the faculties so exchanged shall be paid their regular salaries out of

the funds appropriated for the pay of members of the faculties of the university; provided, however, that the qualifications of all members of the faculties of the colleges or universities located without the Territory or the United States so exchanged shall be equal to those of local members of the faculties exchanged. Any provision of law to the contrary notwithstanding, the requirements of citizenship and residence shall not apply to any member of the faculty coming to the Territory from any foreign state, country or territory under any such contract of exchange.

All members of the faculties so exchanged by the Territory shall furnish their own transportation to and from the state, country or territory with which exchanged.

No compensation shall be paid by the Territory of Hawaii to members of the faculties exchanged from colleges or universities located without the Territory or the United States; provided that in any case where the local exchanged member of the faculty becomes incapacitated or, for any reason, leaves the exchange position permanently, the board may pay the visiting member of the faculty an amount not to exceed the salary rating of the local exchanged member of the faculty, such an arrangement to continue until the end of the period of exchange or until such time as some adjustment satisfactory to the board of regents has been made."

Section 2. This Act shall take effect upon its approval.

(Approved October 3, 1941.) **H. B. 23, Act 19.**

CLASSIFICATION OF FACULTY AND PERSONNEL.

[A-10] An Act Providing for the Classification of Members of the Faculty and Certain Other Personnel of the University of Hawaii and Making an Appropriation for Compensation Adjustments.

Be it Enacted by the Legislature of the Territory of Hawaii:

[Sec. 827-A.] Section 1. [Classification schedule to be adopted.] It shall be the duty of the board of regents of the University of Hawaii to classify all members of the faculty of the University of Hawaii, including research workers, extension agents, and all personnel engaged in instructional work as defined in section 4, subsection 5, of the Classification Act of 1941, and to adopt a classification schedule conforming, as nearly as may be practical,

to the schedules set forth in said Classification Act. The personnel classification board of the territory created by said Classification Act shall, upon the request of said board of regents, render such assistance as may be practicable in connection with such classification.

[Sec. 827-B.] Section 2. **[To conform to territorial system.]** The adjustments of compensation to conform with the classification shall be made in general accordance, so far as may be practical, with the provisions of said Classification Act, relating to territorial employees.

[Sec. 827-C.] Section 3. **[Rating of employees, annual increases.]** Annual increases of compensation shall be allowable, and shall be allowed, in general accordance, so far as may be practical, with the provisions of said Classification Act, providing for the allowance of annual increases to territorial employees for efficient service, and said board of regents shall adopt a fair and reasonable plan for rating the efficiency of individual employees affected by this Act.

Section 4. (a) There is hereby appropriated from the general revenues of the Territory of Hawaii, in addition to other appropriations available for payment of the compensation of the personnel subject to classification under this Act, the sum of fifty thousand dollars (\$50,000.00) for the University of Hawaii to be expendable at the direction or under the supervision of the board of regents of the University of Hawaii during the period between November 1, 1941, and June 30, 1943, for compensation adjustments and increases made under the provisions of this Act, subject to the general provisions and restrictions hereinafter set forth; provided, that all balances not required for the effectuation of this Act shall lapse as of June 30, 1943.

(b) In the event that the sum appropriated by this Act, together with other available appropriations for personal services for the personnel subject to classification under this Act, shall be insufficient to meet the full requirements for the current biennium of both sections 2 and 3 of this Act, the funds appropriated by this Act shall be expended by the board of regents in the following order of priority and the following provisions shall apply:

(1) The total amount estimated in accordance with this paragraph to be necessary to be expended out of said appropriation made by subsection (a) of this section to meet the full requirements for said biennium of sections 2 and 3 of this Act for all of said personnel in positions allocated to grades not higher than grade 3 of the professional service or than grades of other

services carrying compensation rates equivalent to that of said grade 3 (all of said grades being hereinafter referred to as the "lower group"), shall be a first charge upon said appropriation. The board of regents, as soon as possible, shall estimate the total amount which will be required to be expended from said appropriation for the purposes of this paragraph, such total amount being hereinafter referred to as the "lower group requirements".

(2) If the amount of the lower group requirements shall be less than the amount of the appropriation made by said subsection (a), the difference between said two amounts, hereinafter referred to as the "free balance", shall be available for expenditure as provided in paragraph 6 of this subsection.

(3) If the amount of the lower group requirements shall equal or exceed the amount of said appropriation, then the compensation of no position, classified and assigned under this Act to a grade higher than those of the lower group, shall be increased by payments from said appropriation, during said biennium.

(4) Adjustments of compensation for positions in the lower group under section 2 of this Act shall be made, beginning with employees occupying positions carrying the lowest rates of compensation, regardless of grade or service, and progressing upward until all adjustments are made or the funds are exhausted.

(5) On or shortly prior to June 30, 1942, the board of regents shall re-estimate the total amount necessary to be expended out of said appropriation for the fiscal year commencing July 1, 1942, to meet the compensation payable for positions in the lower group, including the increments estimated to be payable under section 3. If the amount so estimated shall be less than the balance of said appropriation which will be available for said purpose for said fiscal year, then such increments shall be allowed on or after July 1, 1942, beginning with employees occupying positions carrying the lowest rates of compensation, regardless of grade or service, and progressing upward until the requirements of section 3 for said lower group are fully met or the funds are exhausted.

(6) If there is a free balance, as defined in paragraph (2), then such free balance may be expended by the board for any adjustments of compensation pursuant to this Act for positions in grades above the lower group, upon such progressive, pro rata or other basis as, in the board's judgment, shall best promote the public service. If, at any time, on or before June 30, 1942, the board shall estimate or find that the balance of said appropriation, together with other available funds, will be insufficient

to meet fully the requirements of the lower group for the fiscal year commencing July 1, 1942, the board may discontinue to the extent necessary to meet such requirements for the lower group, further payments out of said appropriation for compensation of positions in grades above the lower group, in excess of the limits fixed by paragraph (3) of this subsection, or the board may make such pro rata, or other adjustments of such payments as, in its judgment, shall best promote the public service. Provided, that, as far as practicable, any adjustments in compensation of positions in grades above the lower group under this paragraph, shall be so made as to prefer the employees occupying positions carrying the lowest rates of compensation.

(c) When the board of regents finds from time to time during the biennium that funds appropriated in the general appropriation Act for the use of the University of Hawaii will not be required for the specific purposes to which they have been allocated and would lapse at the end of the biennium, such funds shall, with the approval of the governor, then be used to augment the appropriation made by this Act and may be expended for the purposes of this section, in the same manner as hereinbefore described.

Section 5. This Act shall take effect only in the event that House Bill No. 49 of the present Special Session shall be enacted into law, in which event this Act shall take effect upon its approval; provided, that any increases of compensation initially allowable and payable pursuant to this Act, shall be payable for the period commencing November 1, 1941.

(Approved November 14, 1941.) **H. B. 51, Act 97.**

Title VI.

PUBLIC
HEALTH.

CHAPTER 39.

MEDICINE
AND SURGERY.

LICENSES.

[A-11] An Act to Amend Section 1203 of the Revised Laws of Hawaii 1935, as Amended by Act 183 of the Session Laws of Hawaii 1939 and by Act 4 and by Act 181 of the Session Laws of Hawaii 1941, Relating to the Practice of Medicine and Surgery.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 1203** (a) of the Revised Laws of Hawaii 1935, as amended, is hereby further amended to read as follows:

“(a) (1) is a citizen of the United States, or (2), if not a citizen of the United States, had, on the effective date of Act 183 of the Session Laws of Hawaii 1939, been a bona fide resident of the Territory for a period of ten (10) years and who, on said date was attending or had attended or graduated from a recognized medical school or college approved by the American Medical Association or by the State in which said medical school or college is situated and who on said date intended to practice medicine and surgery in Hawaii and who may apply for examination prior to January 1, 1944.”

Section 2. **Section 1203** (d) of the Revised Laws of Hawaii 1935, as amended, is hereby further amended to read as follows:

“(d) is a graduate of a medical school or college classified as class ‘A’ in the classification of the American Medical Association, or, in lieu thereof, has actively practiced, either in some other jurisdiction or in the United States army or navy or public health service (United States), as a licensed physician of medicine or surgery for ten (10) out of the eleven (11) years immediately preceding, or is a graduate of a medical school or college as described in section 1203 (a) (2).”

Section 3. **Section 1203** (e) of the Revised Laws of Hawaii 1935, as amended, is hereby further amended to read as follows:

“(e) has served an internship of at least one (1) year in a hospital, certified or approved by the American Medical Association council on medical education and hospitals for the training of internes and resident physicians certified or approved by

the State in which is situated the medical school or college from which the applicant graduated as set forth in section 1203 (a) (2).”

Section 4. This Act shall take effect upon its approval.

(Became effective October 8, 1941, without the Governor's signature.) **S. B. 27, Act 40.**

Title IX. TAXATION.

CHAPTER 64. FUEL TAX.

[A-12] An Act to Amend Chapter 64, as Amended, of the Revised Laws of Hawaii 1935, Relating to the Fuel Tax.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 64, as amended, of the Revised Laws of Hawaii 1935, is hereby further amended in the following respects and particulars:

(1) (a) By amending **section 2010** thereof by adding thereto immediately following the definition of the word “county” a new paragraph to read as follows:

“‘Commissioner’ shall mean and include the tax commissioner of the Territory of Hawaii, and his assistants and agents charged with the administration and enforcement of the provisions of this chapter”;

(b) By amending the third from the last paragraph of said section defining the word “treasurer” to read as follows:

“‘Treasurer’ shall mean and include the treasurer of the Territory”;

(c) By substituting for the word “treasurer” in the fifth and ninth lines from the top of page 348, in said section, the word “commissioner”.

(2) By substituting for the word “treasurer” in the subtitle of **section 2011** thereof, and in the first, fourth and seventh lines of said section, the word “commissioner”.

(3) By substituting for the word “treasurer” in the third line of **section 2012** thereof the word “commissioner”.

(4) By amending section 2013 thereof, as amended, to read as follows:

“Sec. 2013. Distributors and others to pay certain license taxes.

(a) Every distributor shall, in addition to any other taxes provided by law, pay a license tax to the commissioner of (i) four cents for each gallon of liquid fuel other than diesel oil, and (ii) one cent for each gallon of diesel oil, refined, manufactured, produced or compounded by such distributor and sold or used by him in the Territory or imported by such distributor, or acquired by him from persons not licensed distributors, and sold or used by him in the Territory.

(b) Every distributor or other person who shall use any diesel oil for operating a motor vehicle or motor vehicles upon the public highways of the Territory shall, in addition to the tax required by subsection (a) of this section, pay a license tax to the commissioner of three cents for each gallon of such diesel oil so used by him. Any diesel oil acquired by a person who has in his ownership, possession or control any vehicle in which diesel oil may be used on the highways, shall be presumed to have been entirely used by such person upon the highways, unless upon proper records and from such other evidence as the commissioner may require it shall be proved to the satisfaction of the commissioner that such diesel oil has not been used by such person on the highways. Any person who shall sell or use any liquid fuel knowing that the distributor from whom it was originally purchased has not paid and is not paying the tax thereon shall pay such tax as would have applied to such sale or use by the distributor himself.

(c) Provided, that the tax shall not be collected in respect to any liquid fuel (including diesel oil) shown to the satisfaction of the commissioner to have been sold for use in and actually delivered to, or sold in, the county of Kalawao.” [L. 1932, 1st, c. 19, s. 4; am. L. 1933, c. 133, s. 2; R. L. 1935, s. 2013; am. L. 1937, c. 189, s. 1; am. L. 1939, c. 254, s. 1; am. Sp. L. 1941, c. 26, pt. of s. 1.]

(5) By substituting for the word “treasurer” in the second line of **section 2014** thereof, the word “commissioner”.

(6) By amending section 2015 thereof to read as follows:

“Sec. 2015. Distributors, etc., to keep records. (1) Every distributor shall keep a record in such form as the commissioner shall prescribe, showing (a) the total number of gallons of fuel refined, manufactured, produced, or compounded by such distributor and sold or used by him within each county during each month of the calendar year; (b) the total number of gal-

lons of such fuel imported by such distributor, or acquired by him from persons not licensed distributors, and sold or used by him in each county during each month; (c) the total number of gallons of such fuel sold to the United States or any department or agency thereof or to any other person or entity, or used in any manner, in each county during each month, the effect of which sale or use is to exempt the fuel so sold or used from the imposition of the tax provided for by this chapter; and (d) such other data and figures relevant to the enforcement and administration of the provisions of this chapter as the commissioner may require.

(2) In addition to the foregoing, every person who shall purchase, manufacture, import into the Territory, or otherwise acquire in the Territory, any diesel oil, shall keep in the Territory and preserve for three years records in such form and detail as the commissioner shall prescribe, showing the quantity of diesel oil purchased, imported, manufactured, or acquired, and the type of use, or the disposition, of such diesel oil, including the names and addresses of persons to whom any of such oil shall have been sold or delivered, and the amount so sold or delivered to each. Upon the request of the commissioner there shall be furnished to the commissioner sworn statements containing such information, so required to be kept available, as the commissioner may require.

(3) Provided, that any responsible person buying diesel oil solely for purposes other than resale, may, upon application to the commissioner, and furnishing such information under oath as shall be satisfactory to him for such purpose, be exempted in whole or in part from the requirements of this section as to keeping of records with respect to such diesel oil, upon such conditions as the commissioner may prescribe; this proviso shall be administered in such manner as to prevent as far as reasonably possible undue hardship upon persons purchasing diesel oil solely for purposes other than resale." [L. 1932, 1st, c. 19, s. 6; R. L. 1935, s. 2015; am. Sp. L. 1941, c. 26, pt. of s. 1.]

(7) By amending section 2016 thereof, as amended, to read as follows:

"Sec. 2016. Statements and payments, when and how made; delinquent when; penalties. Each distributor, and each person subject to the provisions of subsection (b) of section 2013 or subsection (2) of section 2015, shall, within thirty days after the last day of each calendar month, file with the commissioner on forms to be prescribed, prepared and furnished by him, a verified statement showing separately (a) the total number of gallons of fuel refined, manufactured or compounded by such

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distributor or person within the Territory and sold or used during such month by him within each county; (b) the total number of gallons of fuel imported by him and sold or used within each county by him during such month; (c) the total number of gallons of fuel acquired by him during such month from persons not subject to the four cents tax on such transaction, and sold or used within each county by him during such month; (d) the total number of gallons of such fuel by him sold to the United States or any department or agency thereof or to any other person or entity, or used in any manner, in each county during such month, the effect of which sale or use is to exempt the fuel so sold or used from the imposition of the tax provided for by this chapter; (e) the total number of gallons of fuel on hand in his possession in all of the counties at the beginning of the month, the total number of gallons thereof by him refined, manufactured, produced, compounded or acquired from persons not subject to the four cents tax on such transaction, or imported during the month, and the total number of gallons thereof on hand in his possession at the end of the month; and (f) such additional information relative to the acquisition, purchase, manufacture or importation into the Territory, and the sale, use or other disposition, of diesel oil by such distributor or person during such month, as the commissioner shall by regulation prescribe; and such distributor or person shall pay at the time of submitting such report to the commissioner, the tax on each gallon of fuel (including diesel oil) by him sold or used in each county during such preceding month, as shown by such statement and required by this chapter; provided, however, (1) that such tax shall not apply to any fuel exempted and so long as the same is exempted from the imposition of the tax by the Constitution or Laws of the United States; and (2) that the tax shall be paid only once upon the same fuel. All such taxes payable for any month shall be and become delinquent after the expiration of thirty days immediately following the end of the month, and shall thereupon bear a penalty of ten per centum of the amount so delinquent and, in addition thereto, interest on such delinquent amount at the rate of two-thirds of one per centum per month or any fraction thereof until paid." [L. 1932, 1st, c. 19, s. 7; am. L. 1933, c. 133, s. 3; R. L. 1935, s. 2016; am. L. 1937, c. 189, s. 2; am. Sp. L. 1941, c. 26, pt. of s. 1.]

(8) By amending section 2017 thereof to read as follows:

"Sec. 2017. Failure to make and file statements and making false statement unlawful. It shall be unlawful for any distributor, or any other person, to fail, neglect or refuse to make

and file any statement required by this chapter in the manner or within the time therein provided or to make any such statement which is false in any particular." [L. 1932, 1st, c. 19, s. 8; R. L. 1935, s. 2017; am. Sp. L. 1941, c. 26, pt. of s. 1.]

(9) By amending **section 2018** thereof:

(a) By inserting therein, immediately following the word "distributor" in the second, eighth and sixteenth lines of said section the words "or other person".

(b) By substituting for the word "treasurer" in the third and eighteenth lines of said section the word "commissioner".

(10) By substituting for the word "treasurer" in the eighth line of **section 2019** thereof the word "commissioner".

(11) By amending **section 2020** thereof:

(a) By substituting for the word "treasurer" in the first, second, seventh, thirteenth and sixteenth lines of said section the word "commissioner".

(b) By inserting therein, immediately following the word "distributors" in the twelfth and thirteenth lines of said section the words "or other persons".

(12) By adding thereto a new section, to be numbered 2020A, to read as follows:

"Sec. 2020A. Assessments. In any case of computation of the tax by the commissioner, as provided in sections 2018 and 2020, the amount of the tax shall be assessed against the person liable therefor, and notice shall be given to him of the amount of tax so assessed with penalties and interest, which notice may be given by mail, addressed to the person assessed at his last known residence or place of business."

(13) By amending **section 2021** thereof, as the same has been amended in toto by Act 172 of the Session Laws of Hawaii 1937, by substituting for the word "treasurer" in the third line of subsection (3) of said section 2021, as the same appears on page 72 of said Session Laws, the word "commissioner".

[**Sec. 2021**, also amended by following Act, Act 49.]

(14) By substituting for the word "treasurer" in the seventh line of **section 2022** thereof the word "commissioner".

(15) By amending **section 2023** thereof:

(a) By substituting for the word "treasurer" in the first line of said section the word "commissioner".

(b) By inserting therein immediately after the word "distributors" in the third and fourth lines of said section the words "or other persons".

(16) By adding thereto a new section, to be numbered 2023A, to read as follows:

"Sec. 2023A. Chapter 61 applicable. To the extent that the provisions of chapter 61, as the same now reads or hereafter may be amended, are not inconsistent with this chapter and may appropriately be applied to the taxes, persons, circumstances and situations involved in this chapter, such provisions, except the provisions as to appeals, shall be applicable to the taxes imposed by this chapter."

Section 2. All other laws or parts of laws inconsistent with the provisions of this Act, or the amendments made by this Act, are hereby amended to conform to this Act and said amendments.

Section 3. On the effective date of this Act, all records of the treasurer of the Territory necessary to enable the tax commissioner to administer the provisions of chapter 64 of said Revised Laws, as amended by this Act, shall by the treasurer be transferred to the tax commissioner.

This Act shall not be construed as affecting in any manner to the detriment of the Territory, any tax liens, taxes, interest, fines, penalties, forfeitures, or other liabilities or obligations, existing, due or incurred prior to the effective date of this Act, nor as affecting the liability of any person to prosecution for any misdemeanor or other criminal offense committed prior to the effective date of this Act under any statutes hereby amended or superseded; and all such liens, taxes, interest, fines, penalties, forfeitures, liabilities, obligations, misdemeanors and other offenses may be enforced, collected, prosecuted or punished, as the case may be, in the same manner, to the same extent, and subject to the same conditions, except as to the substitution, in proper cases, of the officers provided for by this Act in place of those provided for by the pre-existing law, as if this Act had not been passed, provided, further, that in any actions pending with respect to such taxes on January 1, 1942, to which the treasurer is a party, the tax commissioner shall automatically be substituted for the treasurer.

Section 4. Refunds of taxes with respect to diesel oil purchased prior to the effective date of this Act may be made by the treasurer in the cases and in accordance with the procedure provided by the law in effect prior to the amendments made by this Act, provided, that no such refund shall be allowed unless the claim therefor was filed within the time allowed by the law in effect prior to the amendments made by this Act and in no event later than March 31, 1942.

Section 5. **Constitutionality.** If any section, sentence, clause or phrase of this Act, or its application to any person or circumstance, is for any reason held to be unconstitutional or invalid, the remaining portions of this Act, or the application of this Act to other persons or circumstances, shall not be affected. The legislature hereby declares that it would have passed this Act, and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more other sections, sentences, clauses or phrases be declared unconstitutional or invalid.

Section 6. This Act shall take effect on January 1, 1942.

(Approved October 4, 1941.) **H. B. 12, Act 26.**

[A-13] An Act to Amend Act 212 (Series A-63) of the Session Laws of Hawaii 1941, Relating to the Use of the Fuel Tax Highway Fund.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Act 212 (Series A-63) of the Session Laws of Hawaii 1941 [Sec. 2021.], is hereby amended by deleting the last sentence of section 1 of said Act in its entirety.

Section 2. This Act shall take effect upon its approval.

(Approved October 9, 1941.) **S. B. 35, Act 49.**

CHAPTER 65. INCOME TAX.

COMPUTATION OF TAXABLE INCOME.

[A-14] An Act to Amend Chapter 65 of the Revised Laws of Hawaii 1935, as Amended, Relating to the Income Tax.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 65 of the Revised Laws of Hawaii 1935, as amended, is hereby further amended by amending **section 2034** thereof by adding to paragraph 1 of said section 2034 a new sub-paragraph, to be designated (k), to read as follows:

“(k) Amortization of Emergency Facilities.

“(1) Subject to the provisions hereinbelow set forth in this sub-paragraph (k), every taxpayer which is entitled, under section 124 (a) of the Internal Revenue Code, to take the amor-

tization deduction provided for in said section 124 (a), with respect to any emergency facility, and which elects, under section 124 (b) of the Internal Revenue Code, to take such amortization deduction with respect to the emergency facility, shall, with respect to the emergency facility, take amortization deductions under this sub-paragraph (k). The amortization deductions under this sub-paragraph (k), with respect to such emergency facility, shall, except as otherwise expressly provided in this sub-paragraph (k), be in lieu of any deductions with respect to such emergency facility or any part thereof under sub-paragraph (c) of this paragraph.

“(2) Amortization deductions with respect to any emergency facility taken under this sub-paragraph (k) shall be spread over a period of sixty months. Such deductions shall be at the rate of $1\frac{2}{3}\%$ per month, or 20% per annum. The sixty-month period shall begin as to any emergency facility with the month following the month in which the facility was completed or acquired, or with the succeeding taxable year, in accordance with the election of the taxpayer under section 124 (b) of the Internal Revenue Code. In case the sixty-month period with respect to any emergency facility shall commence with the succeeding taxable year as aforesaid, any applicable deductions under sub-paragraph (c) of this paragraph shall be taken to the commencement of said succeeding taxable year and the amount subject to amortization deductions under this sub-paragraph (c) shall be the cost of such emergency facilities diminished by such deductions under said sub-paragraph (c).

“(3) Any taxpayer which has commenced to take amortization deductions, with respect to any emergency facility, under this sub-paragraph (k), may at any time, prior to the termination of the period of sixty months, discontinue taking such amortization deductions. Such discontinuance shall be effective as of the beginning of any month specified by the taxpayer in the taxpayer's return for the taxable year in which such month is included. After the effective date of such discontinuance the taxpayer shall not be entitled to any further amortization deductions under this sub-paragraph (k) with respect to the emergency facility. Commencing with the effective date of such discontinuance, deductions provided for in sub-paragraph (c) of this paragraph shall be allowed with respect to such portions or all of the emergency facility which constitute depreciable property under said sub-paragraph (c), such deductions to be based on such portion or all of the remaining unamortized cost of the emergency facility which is applicable to such depreciable property. Such discontinuance shall be at the election of the

taxpayer and the election to discontinue or not to discontinue such amortization deductions may be made without regard to whether or not the taxpayer has discontinued similar deductions pursuant to section 124 (c) of the Internal Revenue Code and irrespective of any adjustments under section 124 (d) of the Internal Revenue Code.

“(4) As used in this sub-paragraph the term ‘emergency facility’ means any facility, land, building, machinery, or equipment, or any part thereof, which constitutes an emergency facility as defined in section 124 (e) of the Internal Revenue Code, with respect to which a certificate has been made under section 124 (f) of the Internal Revenue Code, and the term ‘emergency period’ means the emergency period as defined in section 124 (e) of the Internal Revenue Code. The amortization deductions provided for in this sub-paragraph (k) shall be taken, with respect to any emergency facility, only on the basis of such construction, reconstruction, erection, installation or acquisition after June 10, 1940, as shall have been certified under section 124 (f) of the Internal Revenue Code as necessary in the interest of national defense during the emergency period; and the deductions provided for in sub-paragraph (c) of this paragraph shall be allowed with respect to such portion of the construction, reconstruction, erection, installation or acquisition of the emergency facility as shall not have been so certified.

“(5) As used in this sub-paragraph, each of sections 124 (a), 124 (b), 124 (c), 124 (d), 124 (e), and 124 (f) of the Internal Revenue Code, means the provisions thereof in effect from time to time.”

Section 2. This Act shall take effect as of January 1, 1941.

(Approved October 20, 1941.) **H. B. 28, Act 71.**

CHAPTER 67. PERSONAL PROPERTY TAX.

TAX, LEVY AND ASSESSMENT.

See E200 189
ALL 152 [A-15] An Act Relating to the Taxation of Personal Property and the Disposition of the Proceeds Thereof and Amending Chapter 67, Revised Laws of Hawaii 1935, as Amended.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 67 of the Revised Laws of Hawaii 1935, is hereby amended in the following particulars and respects:

(1) By amending subsection 2 of **section 2102** thereof, as last amended in toto by Act 172, Series A-45, of the Session Laws of Hawaii 1937, to read as follows:

"2. The tax commissioner shall submit to the treasurer in each such calendar year, on or before the 1st day of April, the aggregate amount of the value of all taxable personal property in the Territory, as determined solely upon the basis of the returns of the taxpayers and taxable values so returned by them, for such assessment year. The treasurer shall thereupon compute the rate which, when applied to said aggregate amount of taxable value, will produce the amount of one million dollars (\$1,000,000.00) during such calendar year. The rate so determined shall be the Territory's proportion of the rate for personal property taxes for said assessment year in each county (such proportion being hereinafter referred to as the 'territorial rate'); provided, that such territorial rate shall in no event be less than one per centum."

(2) By amending the first sentence of subsection 3 of said **section 2102**, as last amended in toto by said Act 172, and further amended in part by Act 188, Series A-47, of the Session Laws of Hawaii 1939, to read as follows:

"3. The board shall prepare and submit to the treasurer of the Territory on or before March 31st of each year a statement of the amount of the county's requirements for such year in addition to those covered by all other revenues of the county, to be met by personal property taxes in the county, but not in excess of the amount specified for each county in the following table:

City and County of Honolulu	\$1,248,000.00
County of Maui	266,000.00
County of Hawaii	460,000.00
County of Kauai	226,000.00"

(3) By amending **section 2112** thereof by substituting, for subsection 3 (d) and subsection 4 of said section, as amended in toto by said Act 172, the following provisions:

“(d) Next, the surplus of such taxes over the amounts designated in subsections 3 (a), 3 (b) and 3 (c) of this section shall be paid into the general fund of the Territory as territorial realizations, until such payments shall aggregate the remaining one-half of the territorial personal property tax requirements for such year in such county; and

“(e) Finally the balance of such taxes over the amounts designated in subsections 3 (a), 3 (b), 3 (c) and 3 (d) of this section shall be paid regardless of amount to the treasurer of the county.

“4. The taxes so paid to each county shall be expendable for the same purposes as moneys in its general fund, except as herein otherwise provided.”

Section 2. Of the moneys made available for the City and County of Honolulu for the year 1942, the Board of Supervisors shall appropriate and make available for expenditure the following amounts for the following purposes:

1. Additional Honolulu Magistrate (including clerks, prosecutors and bailiffs)\$ 23,000.00
2. Salary Adjustments and/or increments due to classification 135,000.00
3. Recreation: Personnel, improvements and equipment 38,820.00

Any balance of moneys made available for the City and County of Honolulu not expended during the year 1942 shall be carried forward and expended during any subsequent year, any other provisions of the law to the contrary notwithstanding, and in case the amount specified in any of the above items shall not be wholly required to complete such item, the unrequired balance shall, after completion of said item, be transferred to the general fund of the city and county.

Section 3. Of the moneys made available for the County of Maui for the year 1942, the Board of Supervisors shall appropriate and make available for expenditure the following amounts for the following purposes:

1. Extension of pipe-line from Paia to Kaaa\$36,000.00

2. East Molokai Road. (This amount shall be expended in connection with Federal Aid funds under the Federal Highway Act or any other Acts of Congress making available Federal funds for such purposes if such can be secured) 25,000.00
3. Hana Belt Road 25,000.00
4. Kihei Makena Road 25,000.00
5. Maintenance, support, equipment and improvement of the Kula Sanitarium for the year 1942 10,000.00
(The foregoing to be in addition to any other appropriation for the same purpose.)

Any balance of moneys appropriated for the foregoing purposes not expended during the year 1942 shall be carried forward and expended during any subsequent year for the purposes specified and in case the amount specified in any item shall not be wholly required to complete the work on such item, the unrequired balance shall, after completion of said item, be transferred to the general fund of the county.

Section 4. Of the moneys made available for the County of Kauai for the year 1942, the Board of Supervisors shall appropriate and make available for expenditure the following amounts for the following purposes:

1. To pay salary increases of employees other than police officers, 1942\$45,000.00
2. To continue increased allowances to pensioners, provided legislation be enacted specifying such increases 15,000.00
3. Kalaheo water system development 50,000.00
4. To connect Moalepe water system with Akulikuli water system 10,000.00
5. New water supply line to Anahola 12,000.00

Of the moneys made available herein for the County of Kauai, the first \$100,000.00 shall be deposited in the general fund of said county to be expended for the same purposes as all other moneys in the general fund.

Any balance of moneys appropriated for items 1 to 5, inclusive, of this section, and not expended during the year 1942, shall be carried forward and expended during any subsequent year for the purposes specified in said items and, in case the amount specified in any item shall not be expended or wholly expended for such items, then all unexpended amounts or bal-

ances of such amounts shall be deposited in a special fund and may be expended for any purpose.

Section 5. Of the moneys made available to the County of Hawaii, the Board of Supervisors of said county shall annually deposit in special funds the amounts hereinafter designated in items 1 to 3, inclusive, and said amounts shall be expended or made available for expenditure for the purposes expressed in said items.

1. For the use of the police department of the county, sums which, together with other amounts mandated by law shall aggregate not less than\$250,000.00
Out of this sum, the sheriff shall pay all operating expenses of the police department, including all salaries of employees of the police department.
2. For use and expenditure by and under the direction of the Board of Supervisors, together with other moneys made available therefor by the board and by the legislature, for the construction of roads in the County of Hawaii 110,000.00
3. For use and expenditure, with other moneys made available therefor by the board and by the legislature, for the acquisition of rights of way for road purposes in the County of Hawaii 25,000.00

Section 6. This Act shall take effect as of January 1, 1942.

(Approved October 6, 1941.) **H. B. 2, Act 29.**

Title XI. COUNTIES— GENERAL.

CHAPTER 79. HIGHWAYS, SIDEWALKS, PARKS, USE OF STREETS, ETC.

[B-16] An Act to Amend Section 2347 of the Revised Laws of Hawaii 1935, Relating to Disposal of Certain Abandoned Public Property.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 2347 of the Revised Laws of Hawaii 1935 is hereby amended to read as follows:

“Sec. 2347. Disposal of abandoned road, etc. Whenever a public road, street, alley or walk, railroad or ditch right of way, or any portion thereof, shall at any time be vacated, closed, abandoned, or discontinued, the same shall be used for the purposes of the Territory; provided, that in case the same shall be in any way disposed of by the Territory, it shall be first offered to the abutters for a reasonable length of time and at a reasonable price, and if they do not take the same, then it may be sold at public auction.” [L. 1923, c. 165, s. 1; R. L. 1935, s. 2347; am. Sp. L. 1941, c. 51, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved October 9, 1941.) **S. B. 40, Act 51.**

CHAPTER 80. LICENSES.

COLLECTION AGENCIES.

[B-17] An Act to Amend Chapter 80 of the Revised Laws of Hawaii 1935, by Inserting Two New Sections to be Numbered Section 2442A and Section 2442B, Requiring Debt Collectors to Furnish to Their Principals a Statement of Account of Collections, Making a Failure to do so a Misdemeanor and Providing a Penalty for Such Misdemeanor.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 80 of the Revised Laws of Hawaii 1935, is hereby amended, by inserting therein two new sections to be numbered section 2442A and section 2442B, respectively, which shall read as follows:

“Sec. 2442A. Statements to be furnished. Each person doing business as a debt collector shall furnish to each of his principals on whose account collections have been made, a statement of such collections within thirty days thereof, and the furnishing of such statement may not be waived.

“Sec. 2442B. Penalties. Any person doing business as a debt collector who shall fail to furnish a statement of account of collections to his principals, as required by section 2442A, shall be guilty of a misdemeanor punishable by fine of not more than one thousand dollars, or by imprisonment for not more than six months or by both such fine and imprisonment. If such person holds a license issued under section 2440, the court imposing

sentence shall, by way of additional penalty, revoke such license. Such license shall not be renewed nor shall any new license to do business as a debt collector be granted for a period of one year following such revocation."

Section 2. This Act shall take effect upon its approval.

(Approved September 27, 1941.) **S. B. 8, Act 11.**

CHAPTER 81. FIREARMS AND AMMUNITION.

[B-18] An Act to Amend Section 2541, as Amended, Section 2542, as Amended, and Section 2552, of the Revised Laws of Hawaii 1935, Relating to the Bureau of Crime Statistics and Identification.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 2541** of the Revised Laws of Hawaii 1935, as amended by Act 104 of the Session Laws of Hawaii 1939, is hereby further amended by inserting the words "and identification" after the words "crime statistics" in the second line of the third paragraph and the third line of the fourth paragraph of said section.

Section 2. **Section 2542** of said Revised Laws of Hawaii 1935, as amended by Act 104 of the Session Laws of Hawaii 1939, is hereby further amended by inserting the words "and identification" after the words "crime statistics" in the second line of the second paragraph of said section.

[**Sec. 2550.** Amended by the following Act.]

Section 3. **Section 2552** of said Revised Laws of Hawaii 1935, is hereby amended by inserting the words "and identification" after the words "crime statistics" in the third and sixth lines of said section.

Section 4. This Act shall take effect upon its approval.

(Approved October 23, 1941.) **S. B. 63, Act 78.**

[B-19] An Act to Amend Section 2550 of the Revised Laws of Hawaii 1935, as Amended, Relating to Forfeiture of Firearms.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 2550 of the Revised Laws of Hawaii 1935, as amended, is hereby further amended to read as follows:

“Sec. 2550. Firearms forfeited when. All firearms or ammunition carried or possessed contrary to law shall be forfeited to the territory, and shall be destroyed or retained by the chief of police or sheriff of any county or city and county, for use by and under the control of the police department in whose jurisdiction they are forfeited.” [L. 1933-4, c. 26, s. 12; R. L. 1935, s. 2550; am. L. 1939, c. 104, s. 7; am. Sp. L. 1941, c. 36, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved October 7, 1941.) **H. B. 47, Act 36.**

CHAPTER 82. INTOXICATING LIQUOR.

[B-20] An Act to Amend Section 2572 of the Revised Laws of Hawaii 1935, as Amended, Relating to County Liquor Commissions.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 2572** of the Revised Laws of Hawaii 1935, as amended, is hereby further amended by substituting for the last clause in the third sentence thereof, the following:

“thereafter every appointment shall be made for a term of three years, commencing from the date of the expiration of the last preceding term.”

Section 2. The term of any member of any of the county liquor commissions serving an unexpired term upon the effective date of this Act under an appointment for a longer period than three years shall terminate upon the expiration of three years from the date of his appointment, or if he shall have served three years or more upon such effective date, upon the effective date of this Act.

Section 3. This Act shall take effect upon its approval.

(Approved October 23, 1941.) **S. B. 34, Act 79.**

[B-21] An Act to Amend Chapter 82 of the Revised Laws of Hawaii 1935, Relating to Intoxicating Liquor and Prescribing Penalties for Violations by Minors.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 82 of the Revised Laws of Hawaii 1935, as amended, is hereby further amended by amending the sections thereof which are hereinafter mentioned, in the following particulars:

(a) By substituting for that part of **section 2575**, after the word "examination", in line 6 thereof, the words "of the public".

[**Sec. 2577.** Amended by the following Act.]

(b) By adding at the end of **section 2600**, the following paragraph:

"A copy of such report shall be furnished the applicant not less than forty-eight hours before any hearing is had upon the application."

(c) By amending section 2605 to read as follows:

"**Sec. 2605. [Renewals.]** Other than for good cause the renewal of an existing license shall be granted upon the filing of an application."

(d) By amending paragraph (c) of subsection 1 of **section 2617** to read as follows:

"(c) Be sold or furnished by any licensee to: (1) any minor, (2) any person at the time under the influence of liquor, (3) any person known to be addicted to the excessive use of intoxicating liquor, or (4) any person for consumption in any vehicle on the licensed premises; provided, that the sale of liquor to a minor shall not be deemed to be a violation of this subsection if, in making such sale the licensee was misled by the appearance of the minor and the attendant circumstances into honestly believing that such minor was of legal age and said licensee acted in good faith, and it shall be incumbent upon the licensee to prove that he so acted in good faith."

(e) By adding to said chapter 82, a new section, to be numbered 2621A, and to read as follows:

"**Sec. 2621A. Payment to be made.** Whenever liquor shall be purchased by the holder of a wholesale, retail, dispenser, club or vessel license from the holder of a manufacturer's, wholesale or retail license, the purchaser shall pay for the liquor so purchased within forty-five (45) days after the end of the month

in which such purchase shall have been made. On the failure to make payment within such time the commission may in its discretion suspend the license of the purchaser for a period of not more than ten (10) days for the first failure and not more than twenty (20) days for any subsequent failure.

“It shall be the duty of the holder of a manufacturer’s, wholesale or retail license to report the failure of a purchaser to comply with the provisions of this Act to the commission of the county or city and county in which the purchaser holds a license, in order that the suspensions or revocation provided by this Act may be enforced by such commission; any holder of a manufacturer’s, wholesale or retail license who shall fail to make such report may likewise be subject to the suspensions hereinabove provided.”

(f) By inserting an additional proviso after the first proviso of **section 2624**, to read as follows:

“provided, further, that the exercise of a license shall in no case be suspended or revoked for any violation (other than a conviction at law of the licensee as above specified) based upon the personal observation of any inspector, unless notice of the violation charged to have occurred shall have been given to the licensee within one week after the alleged violation occurred, and such licensee shall have been given a hearing upon such charge not more than ten nor less than five days after the giving of such notice of alleged violation.”

[**Sec. 2624-A.** Added by following Act.]

(g) By amending **section 2631** by inserting, after the comma following the word “prescribed” in the fourth line thereof, the following:

“or if any minor shall purchase any intoxicating liquor,”.

Section 2. This Act shall take effect upon its approval.

(Became effective November 1, 1941, having been approved by the legislature over the veto of the Governor.) **S. B. 5, Act 89.**

[B-22] An Act to Amend Chapter 82 of the Revised Laws of Hawaii 1935, as Amended, Relating to Intoxicating Liquor, by Adding a New Section Thereto to be Designated Section 2624A, Providing for Appeals from Suspensions or Revocations of Licenses to Circuit Judges at Chambers, and by Amending Section 2577 Thereof.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. There is hereby added to chapter 82 of the Revised Laws of Hawaii 1935, as amended, a new section to be designated 2624A, and to read as follows:

“Sec. 2624A. Appeals. An appeal may be taken from any order suspending or revoking any license by any licensee aggrieved thereby to a circuit judge at chambers of the circuit court of the circuit in which the establishment operating under such license is situated by filing his appeal in such court within ten days of the date of the order of suspension or revocation; provided, however, that the appeal shall not operate as a stay to the order of suspension or revocation appealed from. The appeal shall be subject to such procedure and rules as may be prescribed by the court and the decision of the judge shall be final.”

Section 2. **Section 2577** of the said Revised Laws is hereby amended by changing the period at the end thereof to a comma and adding thereafter the following:

“except as otherwise provided in this chapter.”

Section 3. This Act shall take effect upon its approval.

(Became effective October 8, 1941, having been approved by the legislature over the veto of the Governor.) **S. B. 6, Act 41.**

CHAPTER 83. MOTOR VEHICLES; CHAUFFEUR'S LICENSE; REGISTRATION.

PART I. CHAUFFEURS.

[B-23] An Act Amending Section 2650-G of the Revised Laws of Hawaii 1935, Relating to Applications for Licenses as Motor Vehicle Operators or Chauffeurs and for Instruction Permits, and Section 2650-L of Said Revised Laws, Relating to General Provisions Governing the Issue of Licenses to Operators and Chauffeurs.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 2650-G** of the Revised Laws of Hawaii 1935, as enacted by Act 234, Series B-62, of the Session Laws of Hawaii 1937, is hereby amended by amending subparagraph (a) thereof to read as follows:

“(a) Every application for an instruction permit or for an operator's or chauffeur's license shall be made upon a form furnished by the Examiner of Chauffeurs and shall be verified by the applicant before a person authorized to administer oaths, and the Examiner of Chauffeurs and officers serving under him are hereby authorized to administer such oaths without charge. Each application for an instruction permit shall be accompanied by a fee of \$1.00, and each application for an operator's or chauffeur's license shall be accompanied by a similar fee, unless the applicant shall already have paid the fee upon application for an instruction permit, in which event no fee shall be chargeable. An additional fee of \$2.00 shall be charged and collected upon the issuance of an operator's or chauffeur's license. All the foregoing fees shall become county realizations.”

Section 2. **Section 2650-L** of said Revised Laws, as enacted by said Act 234, is hereby amended by deleting from the second line of subparagraph (a) thereof the following words and figures:

“of Three (\$3.00) Dollars”.

Section 3. This Act shall take effect upon its approval.

(Approved September 25, 1941.) **H. B. 4, Act 6.**

Title XII. COUNTY GOVERNMENT.

CHAPTER 86. GOVERNMENT OF KAUAI, MAUI, HAWAII AND KALAWAO.

SALARIES.

[B-24] An Act Amending Sections 2816, as Amended; 3046, as Amended; 3046-A and 3046-D of the Revised Laws of Hawaii 1935, Relating to the Salaries and Emoluments of Certain County or City and County Officers, Restricting the Power of the County Attorney of Hawaii County to Engage in Private Practice, and Authorizing Certain Emergency Increases in the Compensation of City and County Police Officers and Firemen.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 2816** of the Revised Laws of Hawaii 1935, as amended, is hereby further amended by adding thereto a paragraph reading as follows:

“Notwithstanding the provisions of any other laws or parts of laws, the salaries of the following officers of the county of Maui shall be as follows:

Chairman and executive officer of the board of supervisors	\$ 6,000.00
Attorney	6,000.00
Auditor	4,500.00
Treasurer	4,500.00
Clerk	4,500.00.”

Section 2. The salaries fixed hereby shall be payable from and after the 1st day of July, 1941, and the county of Maui is hereby directed to pay to the officers specified the amount of any increase in the compensation provided for their respective offices from and after said date.

Section 3. **Section 2816** of the Revised Laws of Hawaii 1935, as amended, is hereby further amended by adding thereto a paragraph reading as follows:

“Notwithstanding the provisions of any other laws or parts of laws, the salaries of the following officers of the county of Hawaii shall be as follows:

Chairman and executive officer of the board of supervisors	\$ 6,000.00
County attorney (who shall not engage in the private practice of law during county office hours)	5,400.00
Auditor, county of Hawaii.....	4,800.00
Treasurer, county of Hawaii.....	4,200.00
Clerk, county of Hawaii.....	3,900.00
Deputy sheriff of South Hilo, county of Hawaii..	4,200.00."

Section 4. The salaries fixed hereby shall be payable from and after the 1st day of November, 1941, and the county of Hawaii is hereby directed to pay to the officers specified the amount of any increase in the compensation provided for their respective offices from and after said date.

Section 5. Section 3046 of said Revised Laws, as amended, is hereby further amended to read as follows:

"Sec. 3046. Salaries of certain officers. The salaries of the following officers of the city and county of Honolulu shall be payable semi-monthly from and after the 1st day of November, 1941, out of the city and county treasury at the following rates:

Mayor	\$ 8,850.00
Members of the board of supervisors.....	1,500.00
Sheriff	4,920.00
City and county clerk.....	6,600.00
Auditor	6,600.00
City and county attorney.....	7,500.00
Treasurer	6,900.00
Public prosecutor	7,500.00
Chief of police.....	7,500.00
Chief engineer (fire department).....	6,900.00".

[L. 1907, c. 118, s. 39; am. L. 1927, c. 198, s. 1; am. L. 1929, c. 144, s. 1; am. L. 1931, c. 243, s. 1; am. L. 1932, 1st, c. 13, pt. of s. 1; am. L. 1932, 1st, c. 14, s. 1; R. L. 1935, s. 3046; am. L. 1935, c. 111, s. 1; am. Sp. L. 1941, c. 95, s. 5.]

Section 6. **Section 3046-A** of said Revised Laws, as enacted by Act 78, Series B-75 of the Session Laws of Hawaii 1937, is hereby amended by deleting therefrom the following words and figures:

"chief of police, ...\$7,200.00;"

Section 7. **Section 3046-D** of said Revised Laws, as enacted by Act 78, Series B-75 of the Session Laws of Hawaii 1937,

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is hereby amended by deleting therefrom the following words and figures:

“chief engineer, ...\$6,600.00;”.

Section 8. It is expressly provided that the amendments made by this Act are on the express condition that there shall be enacted into law provision for the classification of the employees of the governments of the Territory, the several counties, and the city and county, and until the enactment into law of such provision for classification the several sections of the Revised Laws of Hawaii specifically referred to in this Act shall be and remain of full force, virtue and effect.

Section 9. The board of supervisors of the city and county of Honolulu is hereby authorized and empowered to provide for the payment, beginning on or after the 1st day of November, 1941, to each of the members of the police or fire departments of said city and county, so long as, in the judgment of said board, the present emergency shall continue, five per centum in addition to the salaries fixed by law for said policemen and firemen.

Section 10. This Act shall become effective upon its approval, subject, however, to the condition set out in section 8 of this Act.

(Approved November 10, 1941.) **S. B. 60, Act 95.**

POWERS AND DUTIES OF BOARD OF SUPERVISORS.

[B-25] An Act Granting to the Boards of Supervisors of the Several Counties the Power to Regulate the Business of Renting and Subletting Property for Places of Abode.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 2833** of the Revised Laws of Hawaii 1935, as amended, is hereby further amended by adding thereto a new subsection which shall be appropriately numbered and shall read as follows:

“To regulate the renting, subletting and rental conditions of property for places of abode by ordinance.”

Section 2. **Section 3021** of the Revised Laws of Hawaii 1935, as amended, is hereby further amended by adding thereto a new subsection which shall be appropriately numbered and shall read as follows:

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“To regulate the renting, subletting and rental conditions of property for places of abode by ordinance.”

Section 3. This Act shall take effect upon its approval.

(Approved November 5, 1941.) **S. B. 68, Act 91.**

MAUI POLICE DEPARTMENT.

[B-26] An Act Amending Section 2849J, Revised Laws of Hawaii 1935, as Enacted by Act 104 (Series B-71) Session Laws of Hawaii 1939, and as Amended by Act 261 (Series B-100) Session Laws of Hawaii 1941, Providing for Appropriations for the Maui Police Department.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. That **section 2849J**, Revised Laws of Hawaii 1935, as enacted by Act 104 (Series B-71) Session Laws of Hawaii 1939, and as amended by Act 261 (Series B-100) Session Laws of Hawaii 1941, providing for appropriations for the Maui police department be and is amended by adding thereto a new sentence reading as follows:

“Any moneys appropriated for the commission for any year, remaining unexpended may be at the discretion of the commission carried over for its use during any subsequent period and need not be deducted from the amount hereinabove required to be appropriated for any year.”

Section 2. This Act shall become effective upon its approval.

(Approved September 25, 1941.) **S. B. 20, Act 4.**

COUNTY DENTISTS, MAUI AND HAWAII.

[B-27] An Act Repealing Acts 185 (Series B-75) and 184 (Series B-78), Session Laws of Hawaii 1939, Relating to the Appointment of a County Dentist for the County of Maui and the County of Hawaii, Respectively.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Act 185 [**Sec. 2908A-2908B.**] (Series B-75) and Act 184 [**Sec. 2918A-2918B.**] (Series B-78), Session Laws of Hawaii 1939, are hereby repealed.

Section 2. This Act shall take effect upon its approval.

(Approved September 25, 1941.) **S. B. 22, Act 5.**

KULA SANITARIUM.

[B-28] An Act to Amend Section 2910, Revised Laws of Hawaii 1935, Providing for Funds for the Support of the Kula Sanitarium in the County of Maui.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 2910, Revised Laws of Hawaii 1935, is hereby amended so as to read as follows:

"Sec. 2910. Kula Sanitarium; appropriations; tax rate. The board of supervisors is authorized and directed to appropriate annually, the sum of one hundred thousand dollars for the maintenance, support, equipment and improvement of the Kula Sanitarium; provided, however, that in the month of January of each year, the managing committee of the Kula Sanitarium shall submit to the board a budget of the estimated requirements for the current calendar year, and if such budget calls for a less amount than one hundred thousand dollars the board may appropriate such less amount. The amount herein required to be appropriated each year, or so much thereof as may be necessary, shall be included in the tax rate for real property taxes for such year in the county. All income and revenues received on account of the operation of the Kula Sanitarium shall be placed in a special fund and used only for the maintenance, support, equipment and improvement of the Kula Sanitarium." [L. 1925, c. 54, s. 1; am. L. 1932, 2d, c. 48, s. 1; am. imp. L. 1933, c. 78, s. 1; R. L. 1935, s. 2910; am. Sp. L. 1941, c. 10, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved September 27, 1941.) **S. B. 21, Act 10.**

MAUI COUNTY DEPARTMENT OF PUBLIC WORKS.

[B-29] An Act to Amend Chapter 86 of the Revised Laws of Hawaii 1935, Creating a Department of Public Works for the County of Maui and Prescribing Its Powers, Duties and Functions, and Amending Inconsistent Laws to Conform Thereto.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 86 of the Revised Laws of Hawaii 1935, as amended, is hereby further amended by adding thereto a

new subtitle and three new sections, to be numbered and to read as follows:

“MAUI COUNTY DEPARTMENT OF PUBLIC WORKS.

“Sec. 2911-A. Department created; powers, duties and functions. There is hereby created a department of public works of the county of Maui, in this subtitle referred to as the ‘department’. The department shall have and exercise, and there are hereby transferred to and conferred and imposed upon it, all of the powers, duties and functions now held, enjoyed or performed by, or conferred or imposed upon, the county engineer of said county and any other officers or employees of said county now exercising or performing any powers and functions relating to any of the matters hereinafter next mentioned; and the department shall have charge of, and shall administer and superintend the performance of, all county matters in said county of, or relating to, engineering, public construction, public improvements, building operations and inspection, and public works, and the repair and maintenance of public buildings and other improvements and of public works; provided, that no expenditure shall be made or obligation incurred by the department without the approval of the board of supervisors first obtained.

“Sec. 2911-B. County engineer. Said department shall be in charge of a registered professional engineer of recognized standing and ability, who shall be known as the county engineer, shall be appointed and be removable by the chairman of the board of supervisors of said county with the consent of the said board, shall receive a salary of not less than \$6,000.00 per annum from said county (unless said salary shall be otherwise determined pursuant to any applicable classification law in effect from time to time), and shall be vested with, and have, enjoy, perform and be subject to, all the powers, functions, duties and liabilities conferred or imposed upon said department by this subtitle, and such further powers, duties and functions as shall be prescribed by said board of supervisors.

“Sec. 2911-C. Deputies, assistants and employees. The county engineer, pursuant and subject to such applicable civil service laws and regulations as may be in force from time to time, shall appoint or engage, and may remove, such deputies, assistants and employees as said board may authorize, at such compensation as the board, pursuant and subject to any applicable classification law which may be in effect from time to time, may determine, and said deputies, assistants and employees shall

discharge any of the duties pertaining to said department which said engineer shall assign to them; the county engineer, with the approval of said board, may also appoint, in writing, any deputy, assistant or employee in his department (or, in case no competent person in his department is so available, any competent person at such compensation as the board may authorize) to serve as acting county engineer during his temporary illness, incapacity or absence from the county for whose acts said county engineer shall be responsible, and such appointee shall, during such temporary illness, incapacity or absence of said county engineer have and exercise all the powers, duties and functions of said engineer, subject to the direction and control of said engineer; provided, however, that any such deputy, assistant or employee in said department so appointed as acting county engineer shall serve as such without additional compensation."

Section 2. All laws and parts of laws inconsistent with this Act are hereby amended to conform to this Act.

Section 3. This Act shall take effect upon its approval.

(Approved September 27, 1941.) **S. B. 18, Act 9.**

MAUI COUNTY HOSPITALS.

[B-30] An Act Amending Chapter 86 of the Revised Laws of Hawaii 1935, Providing for the Administration of County Hospitals in the County of Maui by the Maui Hospital Managing Committee; Providing for the Appointment, Tenure, Powers, Duties and Functions of Said Committee and Its Subordinates and for the Financing of Said Hospitals and Amending All Other Inconsistent Laws to Conform Hereto.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 86 of the Revised Laws of Hawaii 1935, as amended, is hereby further amended by inserting, after section 2911 thereof, six new sections to be numbered and to read as follows:

"Sec. 2911.1. Maui Hospital Managing Committee; appointment; qualifications; tenure; to serve without pay. There is hereby created a committee of five members, to be known as the 'Maui Hospital Managing Committee' (hereinafter in this sub-

title referred to as the 'committee'); three of such members hereinafter called the 'appointive members' shall be appointed by the chairman of the board of supervisors of the county of Maui with the approval of the board for terms of three years; provided that the appointive members initially appointed hereunder shall be appointed for terms of one, two and three years, respectively, commencing January 1, 1942. The board shall designate one of its members as a member of the committee, to be known as the 'ex officio member', and a member of the managing committee of the Kula Sanitarium nominated by that committee shall be the fifth member. Each appointive member shall, in addition to having all qualifications required by any other law, have resided in the county at least three years preceding this appointment. Each committee member shall serve as such without compensation, but shall be entitled to receive his actual traveling and other reasonable expenses incurred in the performance of his duties. Any vacancy in the appointive membership shall be filled by appointment for the remainder of the unexpired term.

"Sec. 2911.2. Organization and meetings. The committee shall elect a chairman from its membership, and may designate any other committee member as acting chairman in the absence or disability of the chairman. The committee may adopt such rules as it may consider necessary for the conduct of its business and the regulation of the matters in this subtitle committed to its charge, which rules, when adopted as provided by section 154, shall have the force and effect of law.

"Sec. 2911.3. General superintendent. The committee, subject to any applicable civil service or classification laws, may appoint, at its discretion, and may suspend or remove a general superintendent who shall have such authority as the committee may delegate to him and shall have full power to administer the affairs of the hospitals covered by this subtitle subject to the approval and the rules of the committee. The general superintendent, subject to any applicable civil service or classification laws, shall appoint and may suspend or remove such other employees, subordinates and assistants as may be necessary for the proper conduct of the business and duties of the committee and for which appropriations are available. The compensation of the general superintendent and all of his said appointees shall be fixed by law. In the absence of any classification law, such compensation shall be fixed by the committee.

"Sec. 2911.4. Appropriations; how spent. All moneys at any time appropriated for the committee or any of the hospitals covered by this subtitle shall be expended under the supervision and

authority and by the order of the committee, upon vouchers signed by the general superintendent or person designated by the committee for this purpose.

"Sec. 2911.5. Hospitals under jurisdiction of committee. All of those institutions known, respectively, as the Malulani Hospital, the Hana Hospital and the Ualapue Hospital, and any other county hospitals which may hereafter be established in the county of Maui, are hereby transferred to, and shall be subject to the jurisdiction and control of, the Maui Hospital Managing Committee. Except as otherwise provided by this subtitle, all property rights, powers, functions, duties and liabilities of, or held, possessed or exercised by or imposed upon, any other officers under the laws heretofore existing with respect to any of the institutions hereby transferred to the committee, are hereby transferred to the committee, which shall, except as otherwise provided by law, have, exercise and be subject to the same rights, powers, functions, duties and liabilities with respect to the said respective institutions, persons and matters as were, prior to said effective date, held, possessed or exercised by, or imposed upon the said officers with respect to said institutions, persons, and matters under their respective jurisdiction.

"Sec. 2911.6. Appropriations; budget, disposition of revenues. The unexpended balances of any appropriations made available for the Malulani Hospital, the Hana Hospital and the Ualapue Hospital for the year 1941 are hereby transferred to and made available for expenditure by the committee for the year 1942.

"During the month of January 1942 the committee shall submit to the board of supervisors a detailed budget of its requirements for the respective hospitals under its control for the year 1942; and thereafter in the month of December 1942 and each year thereafter the committee shall submit to the board of supervisors a similar budget of its requirements for the ensuing year. Such budget shall specify generally the purposes for which moneys included therein are required and the estimated amounts required for each of such purposes. There shall also be submitted an estimate of income and revenues on account of the operation of such institutions.

"The board of supervisors shall consider the budget so presented and may, in its discretion, revise or change any item appearing therein; the net amount of the budget as so revised or so much thereof as is to be provided from taxes shall be appropriated for such year for the use of the committee. All income and revenues received on account of the operation of such institutions shall be placed in a special fund and used for the maintenance, support, equipment and improvement of said insti-

tutions or any of them. The board of supervisors may from time to time in its discretion appropriate from proper funds additional moneys to be used by the committee."

Section 2. All laws and parts of laws inconsistent with this Act are hereby amended to conform to this Act.

Section 3. This Act shall take effect on January 1, 1942, provided that the members of the committee may be appointed at any time prior thereto, which appointments shall take effect on January 1, 1942.

(Approved October 9, 1941.) **S. B. 19, Act 48.**

MOLOKAI WATER COMMISSION.

[B-31] An Act to Repeal Act 248 of the Session Laws of Hawaii 1939, Creating the Molokai Water Commission.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Act 248 [Secs. 2912A-2912C.] of the Session Laws of Hawaii 1939 is hereby repealed.

Section 2. This Act shall take effect upon its approval.

(Approved October 29, 1941.) **S. B. 67, Act 85.**

COUNTY OF HAWAII BUREAU OF PURCHASES AND SUPPLIES.

[B-32] An Act to Amend Chapter 86 of the Revised Laws of Hawaii 1935, as Amended, by Adding Thereto a New Subtitle and Twelve New Sections, to be Numbered 2933 to 2933-K Inclusive, Providing for the Establishment of a Bureau of Purchases and Supplies in the County of Hawaii, and to Provide for a Purchasing Agent, Prescribing the Powers and Duties of Such Purchasing Agent, and the Method by Which Supplies, Materials, and Equipment Shall be Purchased and the Manner of Contracting Therefor, and Continuing Certain Officers and Employees in the Offices, Employments, and Duties Covered by this Act.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 86 of the Revised Laws of Hawaii 1935, as amended, is hereby further amended by adding thereto a new subtitle and twelve new sections, reading as follows:

**BUREAU OF PURCHASES AND SUPPLIES
IN THE COUNTY OF HAWAII.**

Sec. 2933. Organization of the Bureau of Purchases and Supplies for the County of Hawaii. There is hereby created in the County of Hawaii, a bureau to be known as the bureau of purchases and supplies, the chief administering head of which shall be the county purchasing agent. The purchasing agent shall be appointed by the auditor of the county and shall be deemed an employee and not a department head under the provisions of Act 187, Session Laws of Hawaii 1939, Part III, section 17, subsection (d). The purchasing agent shall receive such salary and remuneration as may be fixed by the Board of Supervisors of the county and shall be required to give official bond in the amount of ten thousand (\$10,000.00) dollars, conditioned upon the faithful performance of his duties.

Sec. 2933-A. Definitions. When used in this Act the term "department" and "establishment" shall mean any executive department, commission, board, bureau, office, agency or other establishment of the County of Hawaii to which the Board of Supervisors appropriate and over which the Board of Supervisors have control, as well as the police department, Hilo Memorial Hospital and Puumaile Home.

The term "bureau" shall mean the purchasing agent.

The term "government" shall mean the government of the County of Hawaii.

The term "using agency" shall mean any department, institution, board, commission or other agency to which the Board of Supervisors appropriate and over which appropriations the Board of Supervisors of the County of Hawaii has control, as well as the police department, Hilo Memorial Hospital and Puumaile Home.

Am. Sec. 1356
P. 111

Sec. 2933-B. General Powers and Duties of the Purchasing Agent. The county purchasing agent shall have the supervision of such assistants and subordinates as the auditor may appoint, after provision has been made for such assistants and subordinates by the Board of Supervisors.

The county purchasing agent shall have the power, and it shall be his duty to purchase all supplies, materials, equipment and contractual services, needed or required by any and all departments and establishments of the county.

Am. Sec. 1356
P. 111

Sec. 2933-C. Requisitions and Estimates. All using agencies of the county shall file detailed estimates of their requirements in

supplies, materials, equipment and contractual services in such manner, at such time, and for such future periods as their county purchasing agent shall prescribe. This shall in no way prevent any using agency from filing a requisition for any supplies, materials, equipment or contractual services with the purchasing agent at any time because the need for such was not foreseen when the detailed estimates of the using agency were filed. Purchases shall be made by the county purchasing agent only upon the requisitions of the using agencies; provided, however, that for materials, supplies or equipment in common use by more than one using agency, or used in large quantities by any using agency, the purchasing agency may purchase for stock on the basis of the total of such requisitions of estimates previously

Filed.
Sec. 2933-D. Open Market Purchases. Except in the case of purchases of patented or proprietary articles where no competition is possible or of materials, supplies, equipment or contractual services from any department, bureau or organization of the federal, territorial, or county governments, all purchases of and expenditures for supplies, materials, equipment or contractual services, the estimated value or cost of which is less than one thousand (\$1,000.00) dollars, shall be made in the open market without advertisement.

All open market purchases shall be based on at least two competitive bids and shall be awarded to the lowest responsible bidder. The county purchasing agent shall also solicit bids either by direct mail request to prospective bidders or by telephone and by public notice on a bulletin board in his office.

The qualifications and definition of "lowest responsible bidder" shall be fixed and determined by the county purchasing agent, with the approval of the auditor.

The county purchasing agent shall keep a record of all open market purchase orders and the bids submitted thereon, which record shall be open to public inspection.

A list of all articles defined as "Patented" or "Proprietary" for which bids are not required shall be filed by the county purchasing agent with the county auditor and posted on a bulletin board in the office of the purchasing agent.

Filed.
Sec. 2933-E. Inspection. The county purchasing agent shall inspect, or supervise the inspection of all deliveries of supplies, materials, equipment or contractual services to determine their conformance with the specifications set forth in the order or contract. Any department, or using agency having the staff and

facilities for adequate inspection, may be authorized by the county purchasing agent to inspect deliveries made to such using agency, under the rules and regulations which the county purchasing agent shall establish. The county purchasing agent shall have authority to prescribe the chemical and physical tests of samples submitted with bids and samples of deliveries to determine their quality and conformance with the county's specifications. In the performance of such tests, the county purchasing agent shall have authority to make use of laboratory facilities of any agency of the county government. The costs of such tests shall be charged to the appropriation of the using agency in whose behalf the test is made.

Sec. 2933-F. Inventories, surplus, stock. All using agencies shall submit to the county purchasing agent, at such times and in such form as he shall prescribe, reports showing stocks of supplies, materials and equipment in use and on hand awaiting use. When any stock is surplus or not longer of use to any using agency, the purchasing agent may transfer it to another or other agencies which have need of it, making proper accounting for the value of the stock so transferred.

The county purchasing agent shall prepare and keep a consolidated record of supplies, materials and equipment in the possession or control of each using agency of the county, and shall effect an annual settlement at the end of each calendar year with each department or establishment holding such property.

With the approval by resolution of the Board of Supervisors the county purchasing agent shall have power to sell all supplies, materials, or equipment, not needed for public use or that may have become unsuitable for public use. Any such sale shall be based on competitive bids and conducted in accordance with regulations approved by the Board of Supervisors.

Sec. 2933-G. Storerooms and Warehouses. The county purchasing agent shall supervise any and all storerooms and warehouses which may hereafter be established and placed under his control.

Sec. 2933-H. Standardization. The county purchasing agent, with the approval of the auditor, shall classify all the supplies, materials and equipment used by the various branches of the county government. He shall adopt as standards the minimum number of qualities consistent with the successful operation of the county government, and shall define and list all "patented" or "proprietary" articles in the furnishing of which no compe-

tion is possible and for which competitive bids shall not be required. He shall also prepare, adopt, promulgate and enforce written specifications of all standard commodities which are used in common by two or more agencies. The county purchasing agent may make use of the laboratory and engineering facilities of the county and the technical staffs thereof in connection with the work of preparing and adopting standards and written specifications. The county purchasing agent shall also freely consult with the heads and other officials of the using agencies to determine their requirements, and shall endeavor to prescribe those standards which meet the needs of the majority of such agencies. After its adoption, each standard specification shall, until revised or rescinded, apply alike in term and effect to every future purchase and contract for the commodity described in such specification; provided, however, that the county purchasing agent, with the approval of the auditor, may exempt any using agency of the county from use of the commodity described in such standard specification.

Sec. 2933-I. Rules and Regulations. The county purchasing agent shall establish, and from time to time amend, all rules and regulations authorized by this Act and any others necessary to its operation, such rules and regulations and amendments thereto shall be subject to the approval of the Board of Supervisors.

The county purchasing agent shall also submit to the auditor an annual report on the work of his office as conducted in accordance with the provisions of this Act and may submit from time to time recommendations for changes which he deems necessary.

Sec. 2933-J. Payments. All purchases under this Act shall be paid out of the funds appropriated and made available for such purchase for each using agency. When the supplies, materials or equipment requisitioned are delivered to a using agency, such using agency shall forthwith prepare and submit vouchers to the county purchasing agent and when the same are approved by the county purchasing agent and by the auditor, the auditor shall issue warrants in favor of the designated payee or payees.

Sec. 2933-K. Copy of Bids to Auditor and Board of Supervisors. Copies of all bids, formal or informal, shall be submitted by the county purchasing agent to the county auditor and the Board of Supervisors.

Section 2. Interpretation. Whenever consistent with the context of this Act, words in the present, past or future shall be con-

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strued to be interchangeable with and to include such respective other tenses; and words in the masculine, feminine or neuter genders shall be construed to be interchangeable with and to include such other respective genders; and words in the singular number shall be construed to include the plural and in the plural to include the singular, and each shall be construed to be interchangeable with the other.

Section 3. **Constitutionality.** If any section, sentence, clause or phrase of this Act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Act. The Legislature of the Territory of Hawaii hereby declares that it would have passed this Act and each and every section, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, sentences, clauses or phrases thereof be declared unconstitutional.

Section 4. All officers and employees of the County of Hawaii, engaged in the discharge of the duties of a purchasing agent or of an administrative bureau or department discharging such duties, shall continue in their respective offices and employments and shall be deemed members of the civil service system of the county.

Section 5. This Act shall take effect upon its approval.

(Approved October 18, 1941.) **H. B. 30, Act 65.**

HAWAII COUNTY CLASSIFICATION SYSTEM.

[B-33] An Act to Provide for a Position Classification and Compensation Plan for Positions in the Government of the County of Hawaii According to Series, Codes and Classes of Positions and Providing a Compensation Range Designated by Items to Which Classes of Positions Shall be Allocated by Code Numbers and the Fixing of Compensation in Accordance with the Provisions of This Act.

Be it Enacted by the Legislature of the Territory of Hawaii:

[Sec. 2934.01.] Section 1. **Declaration of policy.** That, among other things, it is the purpose of this Act to provide a method of administration whereby:

(a) Rates of pay for positions under this Act shall be so fixed that there shall be equal pay for equal work under comparable employment conditions, irrespective of the sex of the incumbents, and that differences among scales of pay for posi-

tions shall be logically related to differences in the character, importance, difficulty, responsibility, and employment conditions of the work involved.

(b) Individual positions under this Act in accordance with their duties and responsibilities may be so grouped and identified by classes, as defined herein, and the various classes may be so described in printed class specifications, as provided for herein, that the resulting classification system can be used to clarify and facilitate not only salary administration but also all other phases of personnel administration.

[Sec. 2934.02.] Section 2. **Definitions.** Whenever used in this Act:

The term "position" means a specific civilian office or employment in existence on the effective date of this Act or hereafter officially created by the board of supervisors or independent board, whether occupied or vacant, calling for the performance of certain duties and the carrying on of certain responsibilities by one individual on a full-time basis.

The term "board" means the personnel classification board of the county of Hawaii.

The term "class" means a group of positions established under this Act sufficiently similar in respect to their duties and responsibilities that the same requirements as to education, experience, knowledge, and ability may be demanded of incumbents, that the same tests of fitness may be used to choose qualified employees, and that the same schedule of compensation can be made to apply with equity under the same or substantially the same employment conditions.

The term "series" means the broadest division of related classes of positions.

The term "code" means a subdivision of a series which shall include one or more classes of positions for which comparable basic qualifications and compensation are prescribed, the distinction between code being based upon differences in the importance, difficulty, responsibility and value of the work.

The term "maintenance" means any charges for quarters, board and bunk furnished an employee, which may be deducted from his compensation.

The term "allowance" means any cash allowance which shall be paid an employee in addition to compensation for the upkeep, maintenance or use of his automobile in the performance of the duties of his position.

The term "compensation" means any salary, wage, fee, or other emolument, which may include maintenance, paid to an employee for performing the duties and exercising the responsibilities of a position.

The term "employee" means any person temporarily or permanently in a regular position.

The term "the head of the department" means any appointing officer, circuit judge, district magistrate, chairman of any board, commission or managing committee authorized by law to appoint persons to positions, the compensation of which is paid from county funds; and any head of a legally constituted department of the county or any county employee acting in a supervisory capacity as determined by resolution of the board of supervisors.

The term "department" means any county office, court, board, commission, managing committee, or any other legally constituted department of the county; or any bureau or unit of the county of Hawaii as determined by resolution of the board of supervisors.

The term "appointing officer" shall mean any county official, circuit judge, district magistrate, the chairman of any commission, board, managing committee; or any person or employee authorized by law to appoint subordinates to positions, the compensation of which is paid from county funds.

The term "county" means and includes the county of Hawaii.

The term "chairman" shall mean the chairman of the board of supervisors of the county of Hawaii.

The term "board of supervisors" means the board of supervisors of the county of Hawaii.

The term "independent board" shall mean any board, managing committee, commission or appointing officer vested by law with the authority to expend county funds under its control.

The term "rate" means any monthly compensation rate prescribed in section 12 herein.

The term "item" means any one of the items prescribed in section 12, numbered from 1 to 51, inclusive, and including the compensation range attached to such item.

CLASSIFICATION FOR THE COUNTY

[Sec. 2934.03.] Section 3. (a) **Personnel classification board.** The civil service commission of the county of Hawaii shall constitute the personnel classification board for the county of Hawaii.

The chairman of the civil service commission shall be the chairman of the personnel classification board.

(b) **Director of classification.** The director of personnel of the civil service commission of the county of Hawaii shall constitute the director of classification and secretary of the board. The director of classification, with the approval of the board, shall appoint such assistants and employees as may be necessary for the proper performance of the board's duties under this Act and for which appropriations shall have been made by the board of supervisors. Such assistants and employees shall be paid such salaries as shall be fixed pursuant to the provisions of this Act.

(c) Officers or employees of the several departments may be temporarily detailed by the chairman to assist the board as required, and in such event shall serve without additional compensation, but no such officer or employee and no employee or member of the board shall be deprived of his regular compensation because of membership or service upon such board.

(d) **Board to serve without pay; meetings.** The members of the board shall serve without pay, but each of said members shall be paid his necessary traveling expenses incurred in the discharge of his duties as a member of the board, provided, that when any such member shall be required to travel from any island to another island of the Territory in the performance of his duties as a member of the board, he shall be allowed his transportation fares and in addition thereto ten dollars a day to cover all other expenses.

The board shall meet at least once in each month, at such place as shall be made available for such purpose by the chairman, and at such time as may be designated in advance by the board and at such other times for which meetings may be called by the board's chairman. All regular meetings of the board shall be open to the public. Any two of the members shall constitute a quorum.

The board shall make an annual report to the chairman not later than the 15th of February of each year.

[Sec. 2934.04.] **Section 4. General powers of the board.** The powers of the board, subject to the provisions of section 7 of this Act, shall be:

(1) To make all necessary rules and regulations not inconsistent with the provisions of this Act.

(2) To decide what positions come within the scope of this Act as defined in section 5 herein.

(3) To decide which of the positions coming within the scope of this Act are subject to the compensation schedules prescribed in section 12 herein, and which are subject to the principles and procedures specified in section 6 herein.

(4) To prepare, establish, make public, and keep current adequate specifications for all classes of positions covered by this Act, excluding those which are not subject to the compensation schedules prescribed in section 12 herein, showing (a) the title established by the board for each class, (b) the duties and responsibilities involved in each class, illustrated where necessary by examples of typical tasks or typical positions in the class, (c) the minimum qualifications required for the satisfactory performance of such duties and tasks, and (d) the series and code allocation or the salary rates for each class.

(5) To designate additional classes as necessity may arise from time to time and to combine, divide, alter, or abolish existing classes.

(6) To prescribe additional series to cover all positions which are not subject to section 6 (a) herein, and which shall not fairly and reasonably be allocable to codes within one of the series described within the compensation schedules herein, such series to consist of codes with the same ranges of compensation provided by section 12 for positions which are comparable therewith as to qualifications and duties.

(7) To subdivide the several codes into appropriate classes and prescribe such minimum and maximum salary rates for each class as the board may consider proper within the range of the code involved.

(8) To ascertain currently the facts as to the duties and responsibilities of any position within the scope of this Act, and to determine finally the class to which any such position shall be allocated, and in addition the series and code to which classes of positions subject to the compensation schedules prescribed in section 12 shall be allocated.

(9) To review the allocations of positions to classes or of classes to series or codes, and subject to the chairman's approval, to change such allocations whenever in its opinion the facts warrant; provided, that such review and change shall be made only after consultation with the heads of the departments concerned and after affording all incumbents of positions affected an opportunity to be heard, of which hearing a permanent written record shall be made and kept; provided, further, that in all cases where the board shall change the allocation of a position to a lower code or class the rate of pay fixed for such position

prior to such change may be continued so long as the position is held by the incumbent then occupying it.

(10) To prepare, establish and make public schedules of regular and part-time positions carrying maintenance, to render final decisions regarding charges for maintenance which may be deducted from the pay of the employee and to make reviews and revisions of such schedules and charges in whole or in part when necessary.

(11) To prepare, establish and make public schedules of regular and part-time positions carrying allowance which shall be paid an employee in addition to compensation, to render final decisions regarding such allowance and to make reviews and revisions of such schedules in whole or in part when necessary.

[Sec. 2934.05.] Section 5. **Scope of this Act.** This Act shall apply to all regular full-time positions, the compensation for which is paid directly from county funds, except compensation paid to board and commission members, jurors, district magistrates, deputy sheriffs, fees paid to persons employed on contract, and county elective officials; and may apply under the conditions provided in subsection (b) of section 6 to the positions in said subsection enumerated.

[Sec. 2934.06.] Section 6. **Scope of the compensation schedules of this Act; special powers of the board.**

(a) The compensation schedules prescribed in section 12 of this Act, shall not apply to positions the duties of which are to perform or assist in apprentice, helper, or journeyman work in a recognized trade or craft, or to perform the work of a skilled mechanic or artisan or a skilled or an unskilled laborer. The rates of compensation for such positions may be fixed and adjusted from time to time by the board of supervisors so as to conform as nearly as is consistent with the public interest, with the prevailing rates for similar positions under similar employment conditions in private or federal establishment in the locality where the work is performed. Such rates may be determined after an investigational procedure conducted by the board of supervisors which shall make use of existing wage board organizations and methods as far as practicable, after consultation with the heads of departments, and after opportunity for hearing open to employees affected has been granted; provided, that the compensation schedules herein may, in the discretion of the board, be made to apply to any class of positions involving the maintenance and care of the county property.

(b) The board is hereby authorized, subject to the approval of the board of supervisors, after suitable investigation which shall

include consultation with the heads of the departments in which such positions are located, if in its judgment it is practicable and desirable, to establish compensation rates and procedures for any or all of the positions in the following groups: positions on work which is financed jointly by the county and United States, positions none or only part of the compensation of which is paid from the funds of the county; positions filled by inmates, patients, students, or beneficiaries in county institutions; emergency, seasonal, or other positions the duties of which are purely of temporary duration or which are required only for brief periods at intervals; and positions filled by persons employed, locally on a fee, contract, piecework or part-time basis who may lawfully perform their duties concurrently with their private profession, business, or other employment, and whose duties require only a portion of their time, where it is impracticable to ascertain or anticipate the proportion of time devoted to the service of the county.

(c) If the board, subject to the approval of the board of supervisors, shall determine at any time that the rates of the compensation schedules prescribed in section 12 herein, are inadequate for positions having the characteristics described below, it is hereby authorized, after consultation with the heads of departments, to establish on account of such characteristics necessary schedules of differentials or adjustments in the rates prescribed in such compensation schedules, but the differential in compensation of any such position shall not exceed 50 per cent. of the minimum rate of the item to which such position is allocated under such compensation schedules: positions whose duties and responsibilities cause them to fall within the compensation schedules prescribed herein, but which are located at stations which are isolated, remote, or inaccessible when compared with stations at which positions of the same class are usually located, or which involve physical hardships or hazards which are excessive when compared with those usually involved in positions of the same class or occupation, provided, that nothing herein contained shall preclude the board from taking the factor of isolation, hardships or hazards into consideration in allocating a given class to a series and code under the compensation schedules herein if it is uniformly involved in each position in the class, in which event no adjustment is authorized under this section in the rates so determined.

(d) Said board, subject to the approval of the board of supervisors, may prepare, make public, and keep current appropriate regulations for carrying paragraphs (a), (b), and (c) hereof into effect. Such regulations shall include among other things

the current wage schedules for the groups of positions covered by paragraph (a) hereof, definitions of any exclusions covered by paragraph (b) hereof, schedules of differentials or adjustments covered by paragraph (c) hereof, and class specifications in the form provided for in section 4 of this Act, covering the positions included within all such paragraphs, which specifications shall adequately indicate the duties and responsibilities of such positions under the titles by which they are referred to in the wage schedules, the schedules of differentials or adjustments, or the regulations.

[Sec. 2934.07.] Section 7. Procedure for initial classification of positions under this Act:

(a) Upon the effective date of this Act or as soon thereafter as possible, the board shall allocate all regular positions including temporary positions to appropriate classes prescribed in subsection (b) of this section and shall fix the rate of compensation to be paid each employee holding a position allocated to such appropriate class and item in accordance with the provision of section 8 of this Act. The board may review and change such allocations and shall notify all department heads or appointing officer of all final decisions including the fixing of compensation made in allocating positions to such appropriate classes.

(b) The classification code number, series, official title and classes of positions and the item number prescribed in section 12 of this Act to which such classes of positions are hereby allocated shall be as follows:

<u>Column 1.</u>	<u>Column 2.</u>	<u>Column 3.</u>
Classification Code No.	Official Title and Classes of positions.	Item number to which classes of positions under Columns 1 & 2 are hereby allocated.
PARK MAINTENANCE SERIES		
1102a	Park Maintenance Man	2
1102b	Senior Park Maintenance Man	4
1104	Superintendent of Parks	18
BOOKKEEPING AND ACCOUNTING SERIES		
2103	Bookkeeper	16
2105a	Deputy Auditor	29
2105b	Accountant	32
2106	Chief Deputy County Auditor	34

**CLERICAL AND OFFICE ADMINISTRATION
 SERIES**

2202	Clerk	11
2203	Senior Clerk	13
2204b	Head Clerk	24
2205	Chief Deputy County Clerk	30
2205a	Director of Personnel, Civil Service Commission	39

STOREKEEPING AND PURCHASING SERIES

2302	Supply Clerk	8
2304a	Hospital Buyer	18
2304b	Chief Property Clerk	18
2306	Purchasing Agent	38

TREASURY SERIES

2405	Chief Deputy County Treasurer	30
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TYPING AND STENOGRAPHIC SERIES

2502a	Typist-Clerk	9
2502b	Senior Typist-Clerk	10
2502b	Stenographer	10
2503	Law Stenographer	13
2503	Senior Stenographer	13
2504a	Stenographic Secretary	16

COURT ATTACHE SERIES

3103	Deputy District Court Clerk	13
3104a	Circuit Court Bailiff	14
3104b	Deputy Circuit Court Clerk	19
3104b	District Court Clerk	19
3106	Circuit Court Clerk	30
3106	Circuit Court Reporter	30

FIRE SERIES (HAZARDOUS POSITIONS)

3203a	Fireman	48
3203b	Fire Apparatus Operator	49
3204	Fire Lieutenant	50
3205	Fire Captain	51
3206	Assistant Fire Chief	28
3207	Fire Chief	39

LIFESAVING SERIES

3302	Lifeguard	6
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	POLICE SERIES (HAZARDOUS POSITIONS)	
3402a	Police Matron	1
3403a	Policeman	48
3403b	Police Detective	12
3404	Police Sergeant	49
3404	Guard (Prison Camp)	15
3405	Police Detective Lieutenant	20
3405	Police Lieutenant	50
3406	Police Captain	51
	POUND SERIES	
3502	Kennelman	6
3505	Poundmaster	20
	WATCHMAN SERIES	
3602	Watchman	6
	ARCHITECTURE SERIES	
4105	Architectural Draftsman	28
4107	Architect	41
	CIVIL ENGINEERING SERIES	
4203a	Engineering Aid	9
4204	Construction Inspector	19
4204	Senior Engineering Aid	19
4204a	Licensed Surveyor	36
4205	Licensed Civil Engineer	39
4207	Licensed Senior Civil Engineer	40
4208	County Engineer (licensed engineer)	45
	MECHANICAL ENGINEERING SERIES	
4302	Sewerage Pumping Plant Main- tenance Man	7
4302	Water Service Maintenance Man	7
4302	Water Works Keeper	7
4303a	Senior Water Works Keeper	10
4303b	Sewerage Pumping Plant Repairman	14
4303b	Water Service Foreman	14
4305	Superintendent of Water Works and Sewerage	34
	ROAD CONSTRUCTION SERIES	
4405a	District Road Foreman	28
4405b	Senior District Road Foreman	34
	STRUCTURAL ENGINEERING SERIES	
4502	Building Inspection Aid	10
4506	Building Inspector	38

CLINICAL LABORATORY SERIES		
5102	Clinical Laboratory Assistant	6
5103	Clinical Laboratory Technician	15
5104	Head Clinical Laboratory Technician	20
DIETETICS SERIES		
5304	Dietitian	18
MEDICAL SERIES		
5403	Assistant County Physician, M. D.	8
5406	County Physician, M. D.	39
5406	Physician, M. D. (Tuberculosis)	42
5408	Superintendent and Medical Director, Puumaile Home	47
NURSING SERIES		
5501	Institutional Helper	2
5502a	Hospital Attendant	4
5502b	Senior Hospital Attendant	6
5503a	Graduate Nurse	15
5503b	Head Nurse (Floor Supervisor)	17
5504	Assistant Superintendent, Kohala Hospital	22
5504	Assistant Superintendent, Hilo Memorial Hospital	22
5505a	Assistant Superintendent, Puumaile Home (Director, Nursing)	30
5505a	Superintendent, Kohala Hospital	30
5505a	Superintendent, Kona Hospital	30
5505b	Superintendent, Hilo Memorial Hospital	36
SANITARY INSPECTION SERIES		
5602	Sanitary Inspector (Fish)	6
X-RAY LABORATORY SERIES		
5702b	X-Ray Technician	14
CARPENTRY SERIES		
6505	Building Construction and Main- tenance Superintendent	28
CULINARY SERIES		
6501	Kitchen Helper	2
6502a	Cook Helper	3
6502b	Butcher	6
6502b	Cook	6
6503a	Senior Cook	11
6503b	Head Cook	16

GENERAL AND EQUIPMENT MAINTENANCE SERIES		
6602	General Maintenance Man	9
6603	Senior Maintenance Man	14
6604	Head Maintenance Man	20
JANITORIAL SERIES		
6701	Janitor	1
6701	School Janitor	1
6701	School Janitress	1
6702	Senior School Janitor	3
LAUNDRY SERIES		
6801	Laundry Helper	1
6802	Laundry Forelady	4
6803	Laundry Foreman	8
PLUMBING SERIES		
6914	Plumber Foreman	19
POWER EQUIPMENT OPERATING SERIES		
6933a	Chauffeur	9
SEWING SERIES		
6952	Seamstress	4
6953	Senior Seamstress	6
OCCUPATIONAL THERAPY SERIES		
7102	Occupational Therapy Aid	4
7103	Occupational Therapist	8
PROBATION SERIES		
7203	Probation Officer	20
RECREATION SERIES		
7304	Bandmaster	20
LAW INVESTIGATION SERIES		
8103	Law Investigator	16

[Sec. 2934.08.] Section 8. **Adjustments of compensation to conform to classification.** In determining initially the compensation which shall be paid employees occupying positions covered by this Act, the compensation schedules prescribed by section 12 herein shall prevail. Each code to which classes of positions have been allocated shall be given a code number and such code number shall be further allocated by the board, subject to the provisions of section 7 of this Act, to an appropriate item number prescribed in section 12 of this Act. The compensation of any employee holding a position allocated to a code and item by the board shall be paid by the board of supervisors or inde-

pendent board as provided by such appropriate item prescribed in section 12 herein in conformity with the following rules:

(1) If the employee has been continuously employed by the county not more than one year on the effective date of this Act, his compensation shall be fixed at the minimum compensation rate of the item to which his class or code has been allocated.

(2) If the employee has been continuously employed by the county not more than four years nor less than one year on the effective date of this Act, his compensation shall be fixed at the middle compensation rate of the item to which his class or code has been allocated.

(3) If the employee has been continuously employed by the county for more than four years on the effective date of this Act, his compensation shall be fixed at the maximum compensation rate of the item to which his class or code has been allocated.

(4) If the employee is receiving compensation in excess of the maximum rate of the item to which his class or code has been allocated, or in excess of what he would be entitled to under subsections (1), (2), and (3) of this section, his compensation shall not be reduced.

(5) Every new appointment shall be made and compensation fixed at the minimum rate of the item to which his class or code has been allocated; provided, however, that this shall not be construed to require the reduction in compensation of any person who is transferred from one position to another position in the same class or code or who is promoted to a higher class or code.

[Sec. 2934.09.] Section 9. **Increases of compensation and efficiency rating.** Increases in compensation of employees occupying positions subject to the compensation schedules prescribed in section 12 herein to the next higher rate within the salary range of the item to which their positions are respectively allocated may be allowed with the approval of the board at the end of each calendar year upon the attainment and maintenance of a requisite standard of efficiency; provided, that employees who have completed their probationary period during the calendar year shall be considered as having completed their year's service and provided, further, that in no case shall the compensation of any employee be increased unless the board of supervisors or independent board has appropriated money from which the increase may lawfully be paid, nor shall the compensation of any employee be increased more than one rate in any year

nor to a rate higher than the maximum rate for the item to which his position is allocated. Nothing herein contained shall be construed to prevent the promotion or appointment of an employee from a position in one class to a vacant position in a higher class with the approval of the board, and when so promoted or appointed the employee shall receive compensation according to the schedule established for the class to which he is promoted or appointed in accordance with any rule adopted by the board.

The compensation of any employee may be increased an additional rate at any time within any year for meritorious service when such increase is approved by the board of supervisors following a request from the head of the department concerned and the recommendation of the board.

[Sec. 2934.10.] Section 10. **Efficiency rating.** The head of each department or appointing officer shall determine and record at least once semi-annually on forms and in the manner prescribed by the board the efficiency of each employee and shall report to the board at such time as the board specifies. The board shall rate such reports on a percentage basis in accordance with a schedule adopted by the board. Any employee rated by the board at a percentage not more than 100 nor less than 70 shall be marked as "good". Any employee rated by the board at a percentage not less than 60 nor more than 70 shall be marked as "fair". Any employee rated by the board at less than 60 per cent. shall be marked as "unsatisfactory". A percentage of 70 shall be given an employee by the board for average, satisfactory work. The board may, if it so desires, make necessary changes on the efficiency record submitted by the department head or appointing officer before proceeding to rate the employee in accordance with this section.

Any employee marked "good" shall be eligible for salary advancement within the compensation range for his class or code; any employee marked "fair" shall not be eligible for salary advancement within the compensation range for his class or code, and if an employee is marked "unsatisfactory" the board may reduce such employee one salary rate within the compensation range for his class or code, and if such employee is receiving compensation at the minimum rate designated as "A" within the compensation range of his class then his compensation shall be reduced to the minimum rate of the item next below the item to which his class or code has been allocated, or he may be dismissed from his position or employment by the board upon the recommendation of the department head; provided, however,

that the compensation rate for employees eligible for salary advancement shall not be advanced to the next compensation rate for his class or code until after notification of such proposed advancement shall have been filed with the board by the appointing officer or department head, and approval of such advancement shall have been obtained by the board from the board of supervisors or independent board in accordance with the provisions of section 9 hereof.

[Sec. 2934.11.] Section 11. [Temporary appointments, effect of.] Nothing contained in this Act shall be construed to make permanent any temporary appointment under existing law.

Section 12. **The compensation schedule.** The compensation schedules herein shall consist of items numbered consecutively from 1 to 51, inclusive. Each item shall consist of monthly compensation rates which shall include the minimum, middle and maximum rates, and for allocation purposes such rates may be identified as "A", "B", "C", "D", and "E" rates. The items and monthly compensation rates attached to each item shall read as follows:

ITEM	MONTHLY COMPENSATION RATES		
	"A"	"B"	"C"
1	65	70	75
2	70	75	80
3	75	80	85
4	80	85	90
5	85	90	95
6	90	100	110
7	95	105	115
8	100	110	120
9	105	115	125
10	110	120	130
11	115	125	135
12	120	130	140
13	125	135	145
14	130	140	150
15	135	145	155
16	140	150	160
17	145	155	165
18	150	160	170
19	155	165	175
20	160	170	180
21	165	175	185
22	170	180	190

ITEM	MONTHLY COMPENSATION RATES		
	"A"	"B"	"C"
23	175	185	195
24	180	190	200
25	185	195	205
26	190	200	210
27	195	205	215
28	200	215	230
29	205	220	235
30	210	225	240
31	215	230	245
32	220	235	250
33	225	240	255
34	230	245	260
35	235	250	265
36	240	255	270
37	245	260	275
38	250	275	300
39	275	300	325
40	300	325	350
41	325	350	375
42	350	375	400
43	375	400	425
44	400	425	450
45	425	450	475
46	450	500	550
47	475	550	600

ITEM	MONTHLY COMPENSATION RATES FOR HAZARDOUS POSITIONS				
	"A"	"B"	"C"	"D"	"E"
48	110	115	120	125	130
49	135	140	145	150	155
50	160	165	170	175	180
51	185	190	195	200	205

[Sec. 2934.13.] Section 13. **Adjustment of compensation.** In the event the classification of the position occupied by any deputy or other officer or employee of a department shall provide a salary in excess of that of the head of the department, the board shall have the authority to make such adjustment in the compensation of such deputy, officer or other employee as it deems advisable.

[Sec. 2934.14.] Section 14. **Board authorized to make compensation adjustments for certain hospital and institution positions.** The board, any provision in this Act to the contrary notwithstanding, is hereby authorized to deduct from the compensation of each hospital and institution employee of the county who is required to reside upon such premises, a sum not exceeding thirty (30) dollars per month which said sum shall represent the value of maintenance and to set a net compensation rate to be paid employees of such hospitals and institutions in lieu of the fixed compensation rate prescribed in section 12 herein. The board is authorized to determine the positions to which this section shall apply.

[Sec. 2934.15.] Section 15. **Short title.** The short title of this Act shall be "The County of Hawaii Position Classification and Compensation Act of 1941".

Section 16. **Constitutionality.** If any section, sentence, clause or phrase of this Act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Act. The legislature of the Territory of Hawaii hereby declared that it would have passed this Act and each and every section, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, sentences, clauses or phrases thereof be declared unconstitutional.

Section 17. **Repeal of conflicting provisions.** All provisions of law or any executive order, rule or custom inconsistent with the provisions of this Act are superseded by the provisions hereof, to the extent of such inconsistency.

Section 18. **Effective date.** This Act shall take effect on November 1, 1941.

(Approved October 11, 1941.) S. B. 58, Act 55.

Title XIII. HONOLULU GOVERNMENT.

CHAPTER 88. CITY AND COUNTY OF HONOLULU.

POWERS OF SUPERVISORS.

[B-34] An Act to Amend Sections 3021 and 2833 of the Revised Laws of Hawaii 1935 to Confer Upon the Several Counties and the City and County of Honolulu the Power to Provide for and Regulate the Marking and Lighting of Structures Hazardous to Aerial Navigation.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 3021** of the Revised Laws of Hawaii 1935, as amended, is hereby further amended by adding thereto a new paragraph to be numbered 8-A and to read as follows:

“8-A. To provide for and regulate the marking and lighting of all buildings and other structures, whether within or without the fire limits, which may be obstructions or hazards to aerial navigation, so far as may be necessary or proper for the protection and safeguarding of life, health and property.”

[**Sec. 3021. (Rent control.)** Amended by Act 91, supra, page 105.]

Section 2. **Section 2833** of the Revised Laws of Hawaii 1935, as amended, is hereby further amended by adding thereto a new paragraph to be numbered 7-A and to read as follows:

“7-A. To provide for and regulate the marking and lighting of buildings and other structures, whether within or without the fire limits, which may be obstructions or hazards to aerial navigation, so far as may be necessary or proper for the protection and safeguarding of life, health and property.”

Section 3. This Act shall take effect upon its approval.

(Approved September 27, 1941.) **S. B. 32, Act 12.**

[B-35] An Act Relating to the City and County of Honolulu and Providing for Certain Expenditures Thereby.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 3022 B of the Revised Laws of Hawaii 1935, as enacted by Act 242 of the Session Laws of Hawaii 1939, is hereby amended to read as follows:

"Sec. 3022B. Police department; appropriation. The Board of Supervisors, upon request of the police commission, shall appropriate from time to time, for the use of the police department, sums aggregating for the year 1941 not less than \$862,103.00, and thereafter aggregating not less than \$962,710.00 per annum, plus the amounts necessary to meet all of the salary increases from and after December 31, 1941, provided for by sections 3046 A to 3046 C, inclusive. The Board of Supervisors may from time to time, in its discretion, appropriate additional moneys to be used by the police department. Not more than 50% of all appropriations made for the police department for any year may be made from the road fund created by section 2158." [L. 1939, c. 242, s. 4; am. Sp. L. 1941, c. 27, s. 1.]

Section 2. Commencing with the year 1942, the Board of Supervisors of the City and County of Honolulu, any provision of section 773 of the Revised Laws of Hawaii 1935 or any other law to the contrary notwithstanding, shall appropriate for new buildings, additions and improvements for schools (whether or not such amount shall have been included in the special school fund budget for such year for such city and county prescribed by said section 773) not less than the sum of \$100,000.00; and shall also appropriate in each year, commencing with the year 1942, for all of the purposes specified in items 2 to 7 inclusive, of the form of school budget prescribed by said section 773 (whether or not such amounts shall have been included in the special school fund budget for such year for such city and county) not less than the sum of \$850,000.00.

Section 3. This Act shall take effect upon its approval.

(Approved October 6, 1941.) **H. B. 6, Act 27.**

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SALARIES.

[**Sec. 3046. Salaries of officials.** Amended by Act 95, supra, page 104.]

[**B-36**] An Act to Amend Section 3046-A and Section 3046-C of the Revised Laws of Hawaii 1935, Relating to Salaries of Officers and Members of the Police Force of the City and County of Honolulu.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 1 [Sec. 3046-A.]** of Act 78 of the Session Laws of Hawaii 1937, is hereby amended by adding thereto the following:

"provided, however, that officers assigned to the motorcycle division shall receive fifteen dollars (\$15.00) per month more than patrolmen having the same period of service."

[**Sec. 3046-A.** Also amended by Act 95, supra, page 104.]

Section 2. **Section 3046-C** of the Revised Laws of Hawaii 1935, as amended in toto by Act 242, Series B-79, of the Session Laws of Hawaii 1939, is hereby further amended by adding at the end thereof a new paragraph reading as follows:

"In addition to the salaries hereinabove or in section 3046-A provided for, each police officer of the rank of captain or below, who from his own funds furnishes and regularly uses his own automobile in the performance of his official duties, shall be allowed therefor the sum of \$25.00 per month, shall be allowed gasoline and oil at the discretion of the chief of police, based on official mileage, and shall have his public liability and property damage insurance paid for by the city and county."

Section 3. This Act shall take effect upon its approval.

(Approved October 3, 1941.) **H. B. 15, Act 22.**

[**Sec. 3046-D. Fire department.** Amended by Act 95, supra, page 104.]

GENERAL PROVISIONS.

[B-37] An Act to Amend Section 3127 of Chapter 88 of the Revised Laws of Hawaii 1935, as Enacted by Act 242 of the Session Laws of Hawaii 1939, Relating to the Liability of City and County Officers on Their Bonds.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 3127 of chapter 88 of the Revised Laws of Hawaii 1935, as enacted by Act 242 of the Session Laws of Hawaii 1939, is hereby amended to read as follows:

“Sec. 3127. Liability of officers, deputies, assistants, clerks or employees on bonds. If any bonded city and county officer, deputy, assistant, clerk, or employee should refuse or neglect to account for and pay over all moneys received by him by virtue of his office or employment, he shall be liable for such refusal or neglect upon his official bond, and the treasurer shall bring an action against him for the recovery thereof, in the name of the city and county, and recover in such action, in addition to the amount so received, fifty per centum thereon by way of damages. No order of the board of supervisors shall be necessary to bring such action. The treasurer’s reasonable expenses, including an attorney’s fee if necessarily incurred, shall be a city and county charge.” [L. 1939, c. 242, s. 4; am. Sp. L. 1941, c. 28, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved October 6, 1941.) S. B. 29, Act 28.

Title XV. COURTS.

CHAPTER 107. DISTRICT COURTS.

MAGISTRATES, TENURE, ETC.

[C-38] An Act Relating to the Number and Salaries of District Magistrates Within the County of Hawaii, and the Discharge of the Duties of Such Office; and Amending Sections 3760 and 3941 of the Revised Laws of Hawaii 1935, as Amended.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 3760** of the Revised Laws of Hawaii 1935, as amended, is hereby further amended by changing the semi-colon in the first sentence thereof to a comma, and by inserting after said comma the following:

“save that one district magistrate shall be appointed to perform the duties of said office for both the districts of North Kohala and South Kohala, and one district magistrate shall be appointed to perform the duties of said office for both the districts of North Kona and South Kona;”.

Section 2. **Section 3941** of the Revised Laws of Hawaii 1935, as amended, is hereby further amended by amending those items under the subheading “County of Hawaii”, which relate to the salaries of district magistrates, being all but the sixth and seventh items, to read as follows:

“District magistrate, North Kohala and South Kohala	200.00	2400.00”
“District magistrate, North Kona and South Kona	175.00	2100.00”
“District magistrate, Kau	150.00	1800.00”
“District magistrate, South Hilo	350.00	4200.00”
“District magistrate, North Hilo	150.00	1800.00”
“District magistrate, Hamakua	215.00	2580.00”
“District magistrate, Puna	180.00	2160.00”

Section 3. The office of district magistrate of South Kona is hereby declared vacant. From and after the effective date of this Act and for the remainder of his term of office the district magistrate of North Kona shall perform the duties of district magistrate for both the districts of North Kona and South Kona.

Section 4. All territorial laws or parts of laws inconsistent with the provisions of this Act, or of sections 3760 and 3941 of the Revised Laws of Hawaii 1935, as amended by this Act, are hereby amended to conform to this Act and to said sections 3760 and 3941 of the Revised Laws of Hawaii 1935, as amended by this Act.

Section 5. This Act shall take effect upon its approval, save that the changes in the salaries of district magistrates, including the district magistrate of North Kona, shall become effective as of the first day of the calendar month in which this Act is approved.

(Approved October 21, 1941.) **H. B. 41, Act 75.**

CHAPTER 112. SALARIES AND EXPENSES.

[C-39] An Act to Amend Section 3940 of the Revised Laws of Hawaii 1935, as Amended, Relating to Salaries and Expenses of Circuit Courts.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 3940 of the Revised Laws of Hawaii 1935, as amended, is hereby further amended in the following respects:

1. By amending the first paragraph of said section 3940, as amended, to read as follows:

"Sec. 3940. Expenses circuit courts. The several counties and the city and county shall pay the expenses of their respective circuit courts and the salaries of such officers and employees as may be required by such courts or as are designated herein to the extent of the following amounts and may pay such additional salaries or increases in salaries or expenses as may from time to time be deemed necessary or proper or in conformity with such classification and compensation schedules as may be adopted by said counties or city and county either by further appropriation or from the expense accounts of said courts."

2. By amending the schedule of salaries and expenses under the heading "FIRST CIRCUIT COURT" to read as follows:

"FIRST CIRCUIT COURT

Per annum.

"(a) Personal services, salaries.....\$108,731.00

(Expenditures out of this item shall be made in accordance with the classification and compensation schedules of the City and County of Honolulu and shall be for the following offices and positions:

Chief clerk of circuit court,
 First chief deputy clerk of circuit court,
 Chief deputy clerk and accountant,
 Archivist and deputy clerk,
 Head deputy clerk of court,
 Head deputy clerk of court,
 Senior cash accounting clerk,
 Junior clerk-stenographer,
 Assistant clerk-stenographer,
 Junior clerk-typist,
 Ten court room clerks,
 Five court reporters,
 Senior interpreter (Hawaiian),
 Senior interpreter (Filipino),
 Senior interpreter (Portuguese) part time,
 Chief adult probation officer,
 First deputy adult probation officer,
 Second deputy adult probation officer,
 Clerk-stenographer,
 Chief court officer,
 Four court officers,
 Assistant clerk-stenographer,
 Junior accounting clerk and assistant cashier).

"(b) Other personal services contractual or otherwise, salary increases as approved by the Board of Supervisors, materials and supplies, fixed charges and equipment..... 47,800.00

(Expenditures out of this item for equipment and supplies shall be made under existing laws of the territory and ordinances of the city and county relating thereto).

"DIVISION OF DOMESTIC RELATIONS

"All of the officers or employees whose compensation falls under this heading shall, subject to the civil service law, be appointed and may be removed by the judge of the court

of domestic relations, and all of the appropriations under this heading shall be expended under the supervision of the judge of the court of domestic relations.

- | | |
|--|--------------|
| | Per annum. |
| “(a) Personal services, salaries..... | \$ 58,720.00 |
| (Expenditures out of this item shall be made in accordance with the classification and compensation schedules of the City and County of Honolulu and shall be for the following offices and positions:
Chief juvenile probation officer,
Assistant chief juvenile probation officer,
Eight juvenile probation officers,
Two juvenile probation officers.
Clerk-stenographer,
Three junior clerk-stenographers,
Four truant officers,
Two rural truant officers,
Superintendent, Detention Home,
Four matrons, Detention Home,
Cook, Detention Home,
Group supervisor and custodian, Detention Home,
Group supervisor and custodian, Detention Home,
Night watchman, Detention Home). | |
| “(b) The Board of Supervisors shall provide such automobile allowances for the several probation and truant officers as it may determine to be adequate and necessary. | |
| “(c) Maintenance, Shelter Home..... | 9,000.00 |
| (Expenditures out of this item for equipment and supplies shall be made under existing laws of the territory and ordinances of the city and county relating thereto). | |
| “(d) Care of dependent and delinquent children, and medical attention..... | 15,000.00.” |

Section 2. This Act shall take effect and be in force from and after January 1, 1942.

(Approved November 8, 1941.) H. B. 22, Act 94.

[Sec. 3941. Salaries, district magistrates, etc. Amended by preceding and following Acts.]

[C-40] An Act Providing the Salaries of the District Magistrates of the County of Kauai, and Providing Expenses Therefor.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. **[Sec. 3941. (Kauai County.)] Compensation.** The salaries of the district magistrates of the county of Kauai, effective as of July 1, 1941, shall be paid by said county, at the following rates:

	Per Month	Per Annum
District magistrate, Lihue	\$165.00	\$1980.00
District magistrate, Koloa	155.00	1860.00
District magistrate, Waimea	155.00	1860.00
District magistrate, Kawaihau	155.00	1860.00
District magistrate, Hanalei	125.00	1500.00.

The expenses also of the said district magistrates, shall be paid by the county and each of the magistrates shall have power to appoint such additional officers or employees, who shall receive such compensation as may be authorized and provided for by the board of supervisors of the county.

Section 2. All laws inconsistent with the foregoing are hereby repealed.

Section 3. This Act shall take effect upon its approval.

(Approved October 21, 1941.) **S. B. 50, Act 73.**

Title XVI. CIVIL PROCEDURE.

CHAPTER 114. CIVIL PROCEDURE, GENERAL.

CALENDAR.

[C-41] An Act to Amend Section 4106 of the Revised Laws of Hawaii 1935, as Amended, Relating to the Trial of Cases in the Circuit Courts.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 4106** of the Revised Laws of Hawaii 1935, as amended, is hereby further amended by amending the first sentence thereof following the subtitle to read as follows:

“Causes placed on the calendar shall be taken up and disposed of in the order in which they stand unless postponed by agreement of the parties or advanced or postponed for reasons which the court may deem sufficient upon motion of either party.”

Section 2. This Act shall take effect upon its approval.

(Approved October 13, 1941.) S. B. 61, Act 56.

Title XVII. DOMESTIC RELATIONS.

CHAPTER 128. ANNULMENT, DIVORCE AND SEPARATION.

DECREES AND ORDERS.

[C-42] An Act Amending Section 4475 of the Revised Laws of Hawaii 1935, Relating to Permanent Alimony and Maintenance of Children.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 4475** of the Revised Laws of Hawaii 1935, is hereby amended by adding at the end thereof the following paragraph:

“Upon the motion of either party supported by an affidavit setting forth in particular a material change in the physical or financial circumstances of either party, or upon the motion of the former husband supported by an affidavit setting forth in particular that the former wife, although able and capable of substantially rehabilitating herself financially, has wilfully failed to do so, said party may, in the discretion of the judge, be granted a hearing, upon adequate notice to the other, and the fact that the former husband is in default or arrears in the payment of any sums theretofore ordered to be paid, if the circumstances are such that he could not properly be adjudged guilty of contempt of court by reason of such default or arrearage, shall constitute no bar to the right to a hearing. The judge, upon such hearing, shall consider all proper circumstances in determining the amount of alimony, if any, which shall, thereafter, be ordered paid to said former wife. All expenses upon proceedings instituted under the provisions of this paragraph, including attorney's fees for the opposing party, shall be paid by the former husband, except when the motion is made by the former wife and she shall not prevail, in which case she shall pay her own attorney's fee.”

Section 2. This Act shall take effect upon its approval.

(Approved October 18, 1941.) **H. B. 18, Act 68.**

PART 3. SEPARATION.

[C-43] An Act to Amend Chapter 128 of the Revised Laws of Hawaii 1935, as Amended, by Amending Sections 4484 and 4488, by Inserting Two New Sections Therein to be Known as Sections 4489-A and 4490, Relating to Separation and Divorce and Separate Maintenance, and by Making Provisions for Decrees of Separation and Separate Maintenance Heretofore Rendered.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 128 of the Revised Laws of Hawaii 1935, as amended, is hereby further amended by amending section 4484 to read as follows:

"Sec. 4484. Grounds for separation. A separation from bed and board for a period not to exceed two years may be decreed by any circuit judge, for any of the causes for which an absolute divorce from the bonds of matrimony may be granted." [C. C. 1859, s. 1336; am. L. 1903, c. 22, s. 10; R. L. 1935, s. 4484; am. Sp. L. 1941, c. 93, s. 1.]

Section 2. Chapter 128 of the Revised Laws of Hawaii 1935, as amended, is hereby further amended by amending section 4488 to read as follows:

"Sec. 4488. Revocation of separation decree. Where a decree for a separation shall have been pronounced, it may be revoked at any time thereafter, under such regulations and restrictions as the judge may impose, upon the joint application of the parties, and upon their producing satisfactory evidence of their reconciliation." [C. C. 1859, s. 1340; am. L. 1903, c. 22, s. 2; R. L. 1935, s. 4488; am. Sp. L. 1941, c. 93, s. 2.]

Section 3. Chapter 128 of the Revised Laws of Hawaii 1935, as amended, is hereby further amended by inserting therein a new section to be known as section 4489-A, which shall read as follows:

"Sec. 4489-A. Expiration of time of separation. Divorce and alimony. Where the term of separation from bed and board, fixed by decree, shall have expired, a divorce may be granted on the application of either party on the ground, if such be established, that no reconciliation has been effected and that the living together of the parties is insupportable; provided, however, that where separation from bed and board was decreed upon a showing by the wife that the husband was at fault, the circuit judge

sitting in divorce may, in his discretion, even if the divorce proceedings be brought by the husband, decree the payment to the wife of alimony."

Section 4. Chapter 128 of the Revised Laws of Hawaii 1935, as amended, is hereby further amended by inserting therein a new section to be known as section 4490, which shall read as follows:

"Sec. 4490. Decree of separate maintenance. Ground for divorce. Alimony. Where the parties have lived separate and apart for a term of two years or more under a bill in equity for separate maintenance, a divorce may be granted on the application of either party on the ground, if such be established, that no reconciliation has been effected and that the living together of the parties is insupportable; provided, however, that where a decree in equity was decreed upon a showing by the wife that the husband was at fault, the circuit judge sitting in divorce may, in his discretion, even if the divorce proceedings be brought by the husband, decree the payment to the wife of alimony."

Section 5. **Separation decrees heretofore rendered.** Where a decree for separation from bed and board heretofore rendered shall have been in force and effect for the period of not less than four years, a divorce may be granted on the application of either party on the ground, if such be established, that no reconciliation has been effected and that the living together of the parties is insupportable; provided, however, that where separation from bed and board was decreed upon a showing by the wife that the husband was at fault, the circuit judge sitting in divorce may, in his discretion, even if the divorce proceedings be brought by the husband, decree the payment to the wife of alimony.

Section 6. Where a decree in equity for separate maintenance heretofore rendered shall have been in force and effect for the period of not less than four years, a divorce may be granted on the application of either party on the ground, if such be established, that no reconciliation has been effected and that the living together of the parties is insupportable; provided, however, that where a decree in equity was decreed upon a showing by the wife that the husband was at fault, the circuit judge sitting in divorce may, in his discretion, even if the divorce proceedings be brought by the husband, decree the payment to the wife of alimony.

Section 7. This Act shall take effect upon its approval.

(Approved November 5, 1941.) **H. B. 32, Act 93.**

Title XVIII. EQUITY AND PROBATE.

CHAPTER 135. EQUITY: JURISDICTION AND PROCEDURE.

CHARITABLE TRUSTS.

[C-44] An Act to Amend Chapter 135 of the Revised Laws of Hawaii 1935, as Amended, by Adding Thereto a New Section, to be Numbered Section 4716, Relating to Charitable Trusts, Providing for the Payment of Expenses of Litigation and Appropriating Funds for the Employment of an Attorney or Attorneys.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 135 of the Revised Laws of Hawaii 1935, as amended, is hereby further amended by adding thereto a new section, to be numbered section 4716, and to read as follows:

“Sec. 4716. Charitable trusts; expenses. In any proceedings, in any court, concerning a trust, which is wholly or partly charitable and in which the attorney general shall have been cited by the court or trustees as a necessary or proper party, the court having jurisdiction of such proceedings shall have authority to require the payment of all reasonable and necessary expenses incurred by the attorney general for the protection of the beneficial interest in, or for the proper conduct of, such proceedings from the corpus or income, or both, of the trust estate, in such reasonable amounts as the court may order.”

Section 2. The sum of \$3,000.00 is hereby appropriated out of the general fund of the Territory to be expended by the attorney general for the employment and compensation of an attorney or attorneys to represent or assist him in any of the above proceedings. Such moneys shall be expended upon warrants drawn by the auditor based upon vouchers approved by the attorney general.

Section 3. This Act shall take effect upon its approval and shall be applicable to all cases now pending before and not yet finally determined and disposed of by any court, whether upon appeal or otherwise.

(Approved October 1, 1941.) S. B. 10, Act 16.

Title XXII. CRIMINAL OFFENSES.

CHAPTER 207. SABBATH VIOLATIONS.

[C-45] An Act Amending Section 6211 of the Revised Laws of Hawaii 1935, Relating to Labor on Sunday.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 6211** of the Revised Laws of Hawaii 1935, as amended by Act 47, Series C-123, of the Session Laws of Hawaii 1935, by Act 53, Series C-121, of the Session Laws of Hawaii 1937, and by Act 85, Series C-128, of the Session Laws of Hawaii 1939, is hereby further amended by inserting (1) after the word "stations" in the twelfth line thereof, as set forth in said Act 47, the words "vendors of fishing poles, lines, hooks, sinkers, lures and bait," and (2) after the words "bowling alleys" wherever the same appear in said section, the words "and shooting galleries."

Section 2. This Act shall take effect upon its approval.

(Approved October 6, 1941.) **H. B. 21, Act 32.**

[C-46] An Act to Amend Section 6211 of the Revised Laws of Hawaii 1935, as Amended, Relating to Labor on Sunday.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 6211** of the Revised Laws of Hawaii 1935, as successively amended by Act 47 (Series C-123) Session Laws of Hawaii 1935, Act 53 (Series C-121) Session Laws of Hawaii 1937, and Act 85 (Series C-128) Session Laws of Hawaii 1939, is hereby further amended in the following respects:

(1) By inserting in the first proviso thereof after the words "vendors of petroleum products," the words "automobile parts or accessories," so that the said clause shall then read: "vendors of petroleum products, automobile parts or accessories,";

(2) By adding at the end thereof the following:

"And provided further that it shall be lawful on Sunday to make repairs and alterations to any building used exclusively for the conduct of business, or to take a record or inventory of stock or merchandise held in a place of business."

Section 2. This Act shall take effect upon its approval.

(Approved October 6, 1941.) **H. B. 19, Act 30.**

CHAPTER 212. TRAFFIC VIOLATIONS.

WEIGHT, LOAD, SIZE, WIDTH, HEIGHT, ETC.

[C-47] An Act to Amend Chapter 212, Revised Laws of Hawaii 1935, as Amended, Relating to Traffic Violations, by Amending Section 6299C Providing Exceptions to the Restrictions as to Weight, Load, Size, Length, Width, Height and Appliances of Motor and Other Power Vehicles Using the Roads, Streets and Highways in the Territory.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 212 of the Revised Laws of Hawaii 1935, as amended, is hereby amended by amending section 6299C to read as follows:

"Sec. 6299C. Exceptions. In special cases of individual movements, vehicles whose dimensions and/or weights, including loads, exceed the provisions of the two preceding sections may be operated under special permits granted by the territorial highway engineer or his representative, in the case of territorial highways, or by the city and county or county engineer, or his representative, in the case of county roads.

"The granting authority may issue such permits under such conditions of time, route, equipment, speed and otherwise as he may determine.

"The restrictions of the two preceding sections shall not apply to the operation of motor vehicles on roads now under the control of counties where a private individual or corporation actually maintains the county road.

"The boards of supervisors of the respective counties may permit within their respective counties motor vehicles of greater width than nine (9) feet, including load, to be operated on county roads where, after investigation, the board of supervisors determines that such operation is not detrimental to the public use of the county road involved.

"Nothing in this chapter shall prevent motor vehicles with a width of greater than nine (9) feet, including load, from crossing any public road, street or highway within the Territory of Hawaii.

"No provision herein contained shall be so construed as to prevent the passage of ordinances by any county or city and

county, which impose restrictions more severe in nature.” [L. 1941, c. 216, s. 1; am. Sp. L. 1941, c. 39, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved October 7, 1941.) **S. B. 38, Act 39.**

Title XXIV. CORPORATIONS—PARTNERSHIPS.

CHAPTER 219. BUILDING AND LOAN ASSOCIATIONS.

[D-48] An Act to Amend Chapter 219 of the Revised Laws of Hawaii 1935, as Amended, Relating to Building and Loan Associations by Adding Thereto a New Section to be Numbered 6686 Pertaining to the Functions of Building and Loan Associations.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 219 of the Revised Laws of Hawaii 1935, as amended, is hereby further amended by adding thereto a new section to be numbered Section 6686, to read as follows:

“Section 6686. [Sale of defense bonds and savings stamps.] Any association is authorized to become a sales agent for United States Defense Bonds and United States Postal Savings Stamps in the manner provided in the Federal Statutes and Regulations of the Treasury Department of the United States.”

Section 2. This Act shall take effect from the date of its approval.

(Approved October 1, 1941.) **H. B. 13, Act 17.**

CHAPTER 221. CORPORATIONS.

CORPORATIONS SOLE FOR ECCLESIASTICAL PURPOSES.

[D-49] An Act to Amend Chapter 221 of the Revised Laws of Hawaii 1935, as Amended, by Adding Thereto Nine New Sections to be Numbered Sections 6765, 6766, 6767, 6768, 6769, 6769A, 6769B, 6769C and 6769D, Relating to Corporations Sole.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 221 of the Revised Laws of Hawaii 1935, as amended, is hereby further amended by adding thereto a new subtitle consisting of nine new sections which shall be numbered sections 6765, 6766, 6767, 6768, 6769, 6769A, 6769B, 6769C and 6769D, respectively, and together with the subtitle to precede them, shall read as follows:

"Corporations Sole for Ecclesiastical Purposes.

"Sec. 6765. Formation of corporation sole for ecclesiastical purposes. A non-profit corporation sole may be formed hereunder by the bishop, chief priest, presiding elder or other presiding officer of any church, for the purpose of administering and managing the affairs, property and temporalities of such church, in the district within which such bishop, chief priest, presiding elder or other presiding officer has ecclesiastical jurisdiction.

"Sec. 6766. Application for charter; petition; contents. Application to the treasurer for a charter of incorporation under this subtitle shall be made by a written petition, verified by the bishop, chief priest, presiding elder or other presiding officer forming said corporation sole. The petition shall set forth:

"1. The name of the corporation.

"2. The name and address of the officer forming said corporation, the office which he holds in such church, and that he is duly authorized by the rules, regulations or discipline of such church to take such action.

"3. The boundaries of the district subject to the ecclesiastical jurisdiction of the officer forming said corporation sole, in accordance with the rules, regulations or discipline of such church.

"4. The place of the principal office of said corporation sole, which shall be in the Territory of Hawaii.

"5. The term for which the corporation sole is organized, which may be perpetual.

“6. The manner in which any vacancy occurring in the office of bishop, chief priest, presiding elder or other presiding officer forming said corporation sole is required to be filled by the rules, regulations or constitution of such church.

“7. Additional powers to be set forth in its charter, in accordance with section 6744.

“8. Any lawful provision for the regulation of the affairs of said corporation sole, including restrictions upon the power to amend all or any part of the charter.

“9. That the corporation is not organized for profit.

“If any petition for a charter of incorporation presented to the treasurer under this subtitle shall not be in conformity with the requirements of this section the treasurer shall, within fifteen days, return the same to the petitioner specifying wherein the same fails to conform with this section and the petitioner may amend the petition and present the same so amended. A proposed form of the charter of incorporation shall accompany the petition. The treasurer may require additional proofs from the petitioner. If the petition or amended petition and the proposed charter are in conformity with law, the treasurer shall present the petition or amended petition, proposed charter, and accompanying proofs to the governor, and by and with the consent of the governor shall grant to the applicant a charter of incorporation as a corporation sole.

“Sec. 6767. Powers of corporation sole. Every corporation sole formed under this subtitle shall have the powers set forth in sections 6743 and 6744 and be subject to the provisions of section 6745.

“Every such corporation shall have continuity of existence, notwithstanding vacancies in the incumbency thereof, and during the period of any such vacancy, shall have the same capacity and right to receive and take any gift, bequest, devise or conveyance of property, either as grantee for its own use, or as a trustee (where such trusteeship is within its corporate purposes and subject to removal from such trusteeship as provided by law), and to be or be made the beneficiary of a trust, as though there were no vacancies.

“No agency created by a corporation sole by a written instrument which, in express terms, provides that the agency thereby created shall not be terminated by a vacancy in the incumbency of such corporation, shall be terminated or affected by the death of the incumbent of such corporation or by a vacancy in the incumbency thereof, however caused.

“Sec. 6768. Amendment of charter. Subject to the provisos hereinbelow set forth in this section, and subject to any lawful restrictions upon the power to amend the charter of a corporation sole, pursuant to paragraph numbered 8 of section 6766, the incumbent of said corporation may at any time amend the charter of said corporation by changing its name, the term of its existence, the boundaries of the district subject to its jurisdiction, the place of its principal office, the manner of filling any vacancy in the incumbency thereof, its powers, or any provision of said charter for the regulation of the affairs of said corporation (except restrictions upon the power to amend the charter), and may, by amendment of the charter, make provision for any act or thing for which provision is authorized in original charters of corporations sole formed under this subtitle.

“The incumbent of the corporation sole shall subscribe and verify a certificate which shall set forth the amendment either by stating that the charter has been amended to read as set forth in said certificate in full or by stating that any provision or provisions of the charter, which shall be identified by the numerical or other designation or designations thereof in the charter or by stating the wording thereof, has or have been amended to read as set forth in said certificate. Such certificate shall further state that such amendment has been duly authorized by the rules, regulations or discipline of the church of which the incumbent is an officer.

“Provided, that no amendment shall confer any other or greater powers or privileges than could lawfully be conferred or obtained in an original charter, and provided, further, that no amendment shall become effective unless the same shall be allowed by the treasurer by and with the consent of the governor, and no amendment changing the name of the corporation shall become effective until a certificate of such change of name has been filed in the bureau of conveyances of the Territory; the registrar of conveyances shall accept such certificate for recording when issued by the treasurer or anyone authorized to act in his behalf.

“Sec. 6769. Name of incumbent; change in incumbency. There shall be filed, with the petition for a charter, a certificate duly signed and acknowledged, which shall state the name and address of the person who is to be its incumbent, to which shall be appended a duly attested copy of the certificate of appointment or other document through which he succeeded to the ecclesiastical office by virtue of which he became entitled to be the incumbent of said corporation sole. Whenever a change in the incumbency of the corporation shall occur, the new incumbent,

within thirty days after he shall have become such incumbent, shall file with the treasurer a like certificate with like proof of his title to the office.

"Sec. 6769A. Distribution of assets; inspection of books.

"(a) Except upon liquidation of the property of the corporation in case of dissolution, no part of the assets, income or earnings of the corporation shall be withdrawn from or sent out of the Territory, unless the remaining assets of the corporation shall then equal in value twice the amount of the indebtedness of the corporation.

"(b) The treasurer shall at all times have access to the books of the corporation.

"Sec. 6769B. Extensions and renewals. The duration of the corporation, if not perpetual, may be extended by amendment of its charter, and at any time not more than two years after the expiration of a charter the same may be renewed upon application to the treasurer for that purpose, provided that no such renewal shall become effective until the same shall be allowed by the treasurer by and with the consent of the governor. Such application shall be made in the manner and form provided for amendment of a charter, as nearly as may be.

"Sec. 6769C. Dissolution. A corporation formed under this subtitle may be dissolved, voluntarily or involuntarily, in the manner provided in the subtitle of this chapter denominated 'dissolution', save that:

"(a) In lieu of the certificate and vote therein required for a voluntary dissolution, the incumbent of the corporation sole shall execute, subscribe and verify a declaration of dissolution which shall set forth the name of the corporation, the reason for its dissolution or winding up, and that such dissolution has been duly authorized by the church, to administer the affairs, property and temporalities of which said corporation was organized, and the treasurer shall be satisfied that such dissolution has been duly authorized.

"(b) In lieu of the certificate of an officer, director or manager of the corporation, therein required for the involuntary dissolution of a corporation which has ceased to have any assets and has failed to function, such certificate may be made by any authorized officer of the church, to administer the affairs, property and temporalities of which said corporation was organized.

"(c) In lieu of the directors or managers of the corporation the incumbent shall be a trustee to wind up the corporation, un-

less some other person or persons shall be appointed as therein provided.

“(d) The church, to administer the affairs, property and temporalities of which said corporation was organized, shall stand in the place and stead of the stockholders, and may be represented in court by any authorized officer thereof or trustee acting in its behalf; the remaining assets shall be distributed to such church or to a trustee or trustees in its behalf, or in such other manner as may be decreed by the circuit judge at chambers of the judicial circuit in which the dissolved corporation had its principal office at the date of dissolution; and the trustee or trustees in dissolution, the treasurer, the attorney general, or any person connected with such church, may file a petition for the determination of the manner of distribution of such remaining assets, or for the appointment of a trustee or trustees to act in behalf of such church.

“(e) In lieu of the officers of the corporation the incumbent shall represent the corporation with respect to the required tax clearance.

“Sec. 6769D. Corporations sole heretofore formed; general laws.

“(a) Any corporation sole heretofore formed and existing under the laws of this Territory for ecclesiastical purposes may elect to continue its existence under this subtitle by filing an application for amendment of its charter in the manner and form provided for an application for an original charter, together with the required certificate as to the incumbency of such corporation. If such amendment be allowed by the treasurer, by and with the consent of the governor, the provisions of this subtitle thereupon shall apply to such corporations sole the same as to corporations formed under this subtitle.

“(b) Any charter or amended charter granted or corporation created or existing under the authority of this subtitle shall be subject to all general laws heretofore or hereafter enacted in regard to corporations.”

Section 2. Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provision of this Act, or the application thereof to any persons or circumstances, is held invalid, the remainder of the Act and the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

Section 3. This Act shall take effect upon its approval.

(Approved October 14, 1941.) S. B. 48, Act 58.

CHAPTER 226. TRUST COMPANIES.

[D-50] An Act to Amend Section 6909 of the Revised Laws of Hawaii 1935, as Amended, Relating to Investments.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 6909** of the Revised Laws of Hawaii 1935, as amended, is hereby further amended by adding at the end of subsection (e) thereof the following:

“Any trust company which is agent for any insurance company may, out of its capital and surplus, pay or advance premiums due and owing from any individual, firm, company or corporation to such insurance company, prior to the payment by said individual, firm, company or corporation; provided that the total amount of such payments and advances at any one time shall not as to any one individual, firm, company or corporation exceed two per centum (2%) of the capital and surplus of the company, and shall not as to all such individuals, firms, companies or corporations, exceed fifteen per centum (15%) of the capital and surplus of the trust company. Any trust company which is agent for any insurance company may, out of its capital and surplus, make loans to an insurance solicitor employed by said trust company as such agent, secured by the commission, interest or share of the solicitor in insurance premiums payable or to become payable by any individual, firm, company or corporation to said insurance company; provided that the total amount of such loans at any one time to any one solicitor shall not exceed fifty per centum (50%) of the total commissions, interests and shares of such solicitor in such insurance premiums, and to all such solicitors shall not exceed ten per centum (10%) of the capital and surplus of the trust company.”

Section 2. This Act shall take effect upon its approval.

(Approved October 24, 1941.) **H. B. 35, Act 81.**

Title XXV. BUSINESS LAW AND REGULATIONS.

CHAPTER 239A. SALES, CONDITIONAL.

[D-51] An Act to Regulate Conditional Sales and the Financing of Retail Installment Contracts and Prescribing Penalties for Violations Thereof.

Be it Enacted by the Legislature of the Territory of Hawaii:

[Sec. 7355.01.] Section 1. **Definition of terms; contracts to which Act applies.** In this Act "conditional sale" means (1) any contract for the sale of goods under which possession is delivered to the buyer and the property in the goods is to vest in the buyer at a subsequent time upon the payment of part or all of the price, or upon the performance of any other condition or the happening of any contingency; or (2) any contract for the bailment or leasing of goods by which the bailee or lessee contracts to pay as compensation a sum substantially equivalent to the value of the goods, and by which it is agreed that the bailee or lessee is bound to become or has the option of becoming the owner of such goods upon full compliance with the terms of the contract; provided, that this Act shall not until July 1, 1942, apply to any conditional sale contract wherein the total lease-purchase price, or the total purchase price, as the case may be, does not exceed fifty dollars.

"Buyer" means the person who buys or hires the goods covered by the conditional sale, or any legal successor in interest of such person.

"County" includes the city and county of Honolulu.

"Goods" means all chattels personal other than things in action and money, and includes emblements, industrial growing crops, and things attached to or forming a part of land which are agreed to be severed before sale or under the conditional sale.

"Performance of the condition" means the occurrence of the event upon which the property in the goods is to vest in the buyer, whether such event is the performance of an act by the buyer or the happening of a contingency.

"Person" includes an individual, partnership, corporation, and any other association.

“Purchase” includes mortgage and pledge.

“Purchaser” includes mortgagee and pledgee.

“Retail installment contract” means any conditional sale contract covering a retail purchase entered into by any seller who is engaged in the business of selling tangible personal property as a retailer for consumption or use by the buyer, and not for resale.

“Seller” means the person who sells or leases the goods covered by the conditional sale, or any legal successor in interest of such person.

[Sec. 7355.02.] Section 2. Primary rights of buyer. The buyer shall have the right when not in default to retain possession of the goods, and he also shall have the right to acquire the property in the goods on the performance of the conditions of the contract (which may provide for the payment of obligations incurred subsequent to the contract in connection with the use, maintenance, operation or repair of the goods covered by said contract). The seller shall be liable to the buyer for the breach of all promises and warranties, express or implied, made in the conditional sale contract, whether or not the property in the goods has passed to the buyer.

[Sec. 7355.03.] Section 3. Primary rights of seller. The buyer shall be liable to the seller for the purchase price, or for installments thereof, as the same shall become due, and for breach of all promises made by him in the conditional sale contract, whether or not the property in the goods has passed to the buyer.

[Sec. 7355.04.] Section 4. Conditional sales valid except as otherwise provided; fixtures. Every provision in a conditional sale reserving property in the seller after possession of the goods is delivered to the buyer shall be valid as to all persons, except as hereinafter in this Act otherwise provided. If the goods are so affixed to realty, at the time of a conditional sale or subsequently as to become a part thereof, and not to be severable wholly or in any portion without material injury to the freehold, the reservation of property as to any portion not so severable shall be void after the goods are so affixed, as against any person who has not expressly assented to the reservation.

[Sec. 7355.05.] Section 5. Conditional sale of goods for resale. When goods are delivered under a conditional sale contract and the seller expressly or impliedly consents that the buyer may resell them prior to performance of the condition, the same shall in all respects be valid except that the reservation of

property shall be void against purchasers from the buyer in good faith for value in the ordinary course of the buyer's business and without actual knowledge of the condition of such contract.

[Sec. 7355.06.] Section 6. **Cancellation of contract.** After the performance of the condition, upon written demand delivered personally or by registered mail by the buyer or any other person having an interest in the goods, the seller shall execute, acknowledge, and deliver to the demandant a statement that the condition in the contract has been performed, or a bill of sale covering the goods. If for ten days after receipt of such demand the seller fails to mail or deliver such a statement of satisfaction, he shall forfeit to the demandant five dollars (\$5.00) and be liable for all damages suffered, together with a reasonable attorney's fee to be allowed by the court.

[Sec. 7355.07.] Section 7. **Prohibition of removal or sale without notice.** Unless the contract otherwise provides, the buyer may, without the consent of the seller, remove the goods from the island in which the goods are first kept for use by the buyer after the sale and sell, mortgage, or otherwise dispose or by registered mail, of the place to which the goods are to be condition no such buyer shall remove the goods from such island except for temporary use for a period of not more than thirty days unless the buyer not less than ten days before such removal shall give the seller written notice, either personally or by registered mail, of the place to which the goods are to be removed and the approximate time of such intended removal; nor prior to the performance of the condition shall the buyer sell, mortgage, or otherwise dispose of his interest in the goods, unless he or the person to whom he is about to sell, mortgage, or otherwise transfer the same shall notify the seller in writing, either personally or by registered mail, of the name and address of the person to whom his interest in the goods is about to be sold, mortgaged, or otherwise transferred.

[Sec. 7355.08.] Section 8. **Liens.** Unless the contract otherwise provides, the buyer shall not, without the consent of the seller, prior to the performance of the condition, act in respect to the goods so as to subject them to any lien given by any statute or rule of law. Failure by the buyer to dissolve any such lien within ten days after notice of demand duly given by the seller shall constitute default; and the contract may provide that subjection of the goods to any such lien constitutes default. Liens of warehousemen on motor vehicles subject to contract shall extend only to amounts not exceeding fifty dollars (\$50.00).

Nothing in this section contained shall be deemed to extend the rights of lienors beyond those granted by any other law.

[**Sec. 7355.09.**] Section 9. **Fraudulent injury, concealment, removal or sale.** When, prior to the performance of the condition, the buyer, maliciously or with intent to defraud, shall injure, destroy or conceal the goods, or, without the consent of the seller, maliciously or with intent to defraud, shall remove them from the island in which they were first kept for use by the buyer after the sale, or to which with the consent of the seller they have been removed, or shall sell, mortgage, or otherwise dispose of such goods under claim of full ownership, he shall upon conviction be punished by a fine of not more than five hundred dollars (\$500.00) or by imprisonment for not more than one year, or by both such fine and imprisonment.

[**Sec. 7355.10.**] Section 10. **Retaking possession.** When the buyer shall be in default in the payment of any sum due under the contract, or in the performance of any other condition which the contract requires him to perform in order to obtain the property in the goods, or in the performance of any promise, the breach of which by the contract expressly is made a ground for the retaking of the goods, the seller may retake possession thereof. Unless the goods can be retaken without breach of the peace, they shall be retaken by legal process; but nothing herein shall be construed to authorize a violation of the criminal law.

[**Sec. 7355.11.**] Section 11. **Notice of intention to retake.** Not less than ten days prior to the retaking the seller, if he so desires, may serve upon the buyer personally or by registered mail to the last known address a notice of intention to retake the goods on account of the buyer's default. The notice shall state the default and the period at the end of which the goods will be retaken.

[**Sec. 7355.12.**] Section 12. **Redemption.** If the seller does not give the notice of intention to retake described in section 11, he shall retain the goods in the county in which they were retaken for ten days after the retaking, during which period the buyer, upon payment or tender of the amount due under the contract at the time of retaking and interest, or upon performance or tender of performance of such other conditions as may be named in the contract as precedent to the passage of the property in the goods, or upon performance or tender of performance of any other promise for the breach of which the goods were retaken, and upon payment of the expenses of retaking, keeping, and storage, may redeem the goods and

become entitled to take possession of them and to continue in the performance of the contract as if no default had occurred. Upon written demand delivered personally or by registered mail by the buyer, the seller shall furnish to the buyer a written statement of the sum due under the contract and the expenses of retaking, keeping, and storage. For failure to furnish such statement within a reasonable time after demand, the seller shall forfeit ten dollars (\$10.00) to the buyer and also shall be liable to him for all damages suffered because of such failure, together with a reasonable attorney's fee to be allowed by the court. If the goods are perishable so that retention for ten days as herein prescribed would result in their destruction or substantial injury, the provisions of this section shall not apply and the seller may resell the goods immediately upon their retaking.

[Sec. 7355.13.] Section 13. **Compulsory resale by seller.** (a) If the seller has retaken possession after giving the notice prescribed by section 11, or (b) if the seller has retaken possession without such notice under section 18 and the buyer does not redeem the goods within ten days after the seller has retaken possession, and the buyer has paid at least fifty per cent. of the purchase price at the time of the retaking, the seller shall sell said property so retaken at public or private sale. Such sale shall be held within a reasonable time after such retaking, may be made without demand for performance, with or without notice to the buyer, with or without having such property at the place of sale, and upon such terms and in such manner as the seller may determine, subject, however, to the requirements and conditions of this section. The seller shall make reasonable efforts to secure a fair price for the goods upon such resale and shall make and preserve for one year a written record of such efforts, and of the resale. The seller may purchase at any such resale. Within five days from the completion of any resale under the provisions of this section, the seller shall send to the buyer either personally or by registered mail to his last known address an accurate statement showing the sum due under the contract, the expenses of retaking, keeping, storage, and necessary repairs, and all other expenses which properly have been incurred and which legally may be charged against the proceeds, and also a statement of the amount realized on the resale together with a statement that the name of the purchaser upon the resale will be given to the buyer upon application.

[Sec. 7355.14.] Section 14. **Resale at option of parties.** If the buyer has not paid at least fifty per cent. of the purchase price

at the time of the retaking, the seller shall not be under duty to resell the goods as prescribed in section 13, unless the buyer serves upon the seller within ten days after the retaking a written notice demanding the resale, delivered personally or by registered mail. If such notice is served, the resale shall take place within a reasonable time after the service, in the manner prescribed in section 13. The seller voluntarily may resell the goods for the account of the buyer upon compliance with the same requirements.

[**Sec. 7355.15.**] Section 15. **Proceeds of resale.** The proceeds of the resale shall be applied (1) to the payment of the expenses thereof, (2) to the payment of the expenses of retaking, keeping, storing the goods, and necessary repairs, and all other expenses which properly have been incurred and which legally may be charged against the proceeds, (3) to the satisfaction of the balance due under the contract, and (4) any balance may be applied to the payment of any other sums owed by the buyer to the seller and then due. Any sum remaining after the satisfaction of such claims shall be paid to the buyer.

[**Sec. 7355.16.**] Section 16. **Deficiency on resale.** If the proceeds of the resale are not sufficient to defray the expenses thereof, the expenses of retaking, keeping, storing the goods, and necessary repairs, and all other expenses which properly have been incurred and which legally may be charged against the proceeds, and also the balance due upon the purchase price, the seller may recover the deficiency from the buyer, or from anyone who has succeeded to the obligations of the buyer.

[**Sec. 7355.17.**] Section 17. **Rights of parties where there is no resale.** Where there is no resale, the seller may retain the goods as his own property without obligation to account to the buyer except as provided in section 19, and the buyer shall be discharged of all obligations.

[**Sec. 7355.18.**] Section 18. **Election of remedies.** After the retaking of possession as provided in section 10, the buyer shall be liable for the price only after a resale and only to the extent provided in section 16. Neither the bringing of an action by the seller for the recovery of the whole or any part of the price, nor the recovery of judgment in such action, nor the collection of a portion of the price shall be deemed inconsistent with a later retaking of the goods as provided in section 10; but such rights of retaking shall not be exercised by the seller after he has collected the entire price, or after he has claimed a lien upon the goods or attached them, or levied upon them as the goods of the buyer; provided, however, that nothing in this section

shall be construed as modifying in any manner the existing statutes as to attachments or execution.

[Sec. 7355.19.] Section 19. **Recovery of part payments.** If the seller fails to comply with the provisions of sections 12, 13, 14, 15, and 17 after retaking the goods, the buyer may recover from the seller (a) his actual damages, if any; (b) if such actual damages shall be less than twenty per centum (20%) of the sum of all payments which have been made under the contract, the buyer may also recover, in the discretion of the judge, a sum which, when added to any actual damages recovered, shall not exceed twenty per centum (20%) of the sum of all such payments which have been made under the contract; and (c) his costs and a reasonable attorney's fee to be allowed by the court.

[Sec. 7355.20.] Section 20. **Waiver of statutory protection.** No act or agreement of the buyer before or at the time of the making of the contract, nor any agreement or statement by the buyer in such contract shall constitute a valid waiver of the provisions of sections 12, 13, 14, 15 and 19; except that the contract may stipulate that on such default of the buyer as is provided for in section 10, the seller may rescind the conditional sale, either as to all the goods or as to any part thereof for which a specific price was fixed in the contract. If the contract thus provides for rescission, the seller at his option may retake such goods without complying with or being bound by the provisions of sections 11 to 19, inclusive, as to the goods retaken, upon crediting the buyer with the full purchase price of those goods. So much of this credit as is necessary to cancel any indebtedness of the buyer to the seller shall be so applied, and the seller shall repay to the buyer on demand any surplus not so required.

[Sec. 7355.21.] Section 21. **Loss and increase.** After the delivery of the goods to the buyer and prior to the retaking of them by the seller, the risk of injury and loss shall rest upon the buyer. The increase of the goods shall be subject to the same conditions as the original goods.

[Sec. 7355.22.] Section 22. **Statement of charges.** A written statement as hereinafter described shall be delivered by the retail seller to the retail buyer prior to or concurrently with the execution of any retail installment contract if such statement is requested by the buyer prior to or concurrently with the execution of the contract, or, if requested by the buyer in writing within ten days after the execution of the contract, the statement shall be delivered within five days after receipt of the request.

The written statement (which may be included in the retail installment contract) shall recite the following separate items as such and in the following order (all in terms of lawful money of the United States of America):

1. The bona fide cash purchase price of the goods and accessories purchased and of any services, except insurance or the finance charge, rendered in connection with the acquisition thereof, itemized;

2. The amount of the buyer's down payment, (a) in cash, (b) in goods accepted in trade, together with a brief description identifying such goods and the monetary value assigned thereto in good faith;

3. The deferred balance, which is the difference between items 1 and 2;

4. The cost or estimated cost of any insurance premium specifying the types of coverage, and the estimated amount of fees to be paid to any governmental agency for the recording, registering or filing of any documents necessary in connection with the transaction;

5. The time balance owed by the buyer which is the sum total of items 3 and 4;

6. The amount of the charge to be added by the retail seller in consideration of payments being deferred and made over a period of time, to be designated in said statement as the "finance charge";

7. The total time purchase price which is the sum total of items 1, 4 and 6;

8. The terms of payment.

[Sec. 7355.23.] Section 23. (a) **Delivery of documents, etc.** Every retail installment contract shall be in writing, shall contain all agreements of the parties, and shall be signed by the retail buyer. Within thirty days after the making of any retail installment sale the seller shall mail or deliver to the buyer a true and complete copy of the retail installment contract.

(b) The holder of any retail installment contract shall not receive or collect any charges or expenses for delinquencies in collection, except that if the contract so provides the holder of any retail installment contract may collect a delinquency and collection charge for default in the payment of any such contract or installment thereof where such default shall have continued for a period of ten days such charge not to exceed five per cent. of the amount of the installment in default or the sum of five dollars (\$5.00), whichever is the lesser. In addition to such delinquency and collection charge the retail

installment contract may provide for the payment of reasonable attorney's or collector's fees plus court costs where such contract is referred for collection to an attorney or licensed collector not a salaried employee or officer of the holder of the contract. Restrictions on charges herein provided shall not apply under sections 10 to 15 inclusive hereof.

[Sec. 7355.24.] Section 24. **Regulation of finance charges, other charges.** "Finance charge" shall mean the amount of interest, discount, fees, charges, or other consideration paid or contracted to be paid either directly or indirectly by a buyer under a retail installment contract to a seller, in addition to the "time balance" payable for the goods, for the privilege granted or reserved to the buyer of making payments of the purchase price in whole or in part over a period of time either in installments or otherwise.

It shall be unlawful directly or indirectly to charge, contract for, collect or receive any finance charge, on a retail installment contract except as is provided by this section.

Such finance charge shall not exceed the amount of interest which could lawfully be deducted in advance by an industrial loan company under the provisions of the Industrial Loan Act (Chapter 223A of the Revised Laws of Hawaii 1935 as amended) on a loan to run for the same period as the retail installment contract, where the actual cash received by the borrower after such deduction of interest in advance would be equal in amount to the time balance of the retail installment contract.

[Sec. 7355.25.] Section 25. **Credit upon anticipation of payment.** Notwithstanding the provisions of any retail installment contract to the contrary, any retail buyer may satisfy in full at any time before maturity the debt of any retail installment contract. In the event that any contract shall be so satisfied or the seller retakes possession of the goods or obtains a judgment for the amount of the purchase price prior to maturity, then, in any such event, the buyer shall receive credit on such debt of an amount equal to the amount of refund of interest which would have to be paid or credited by an industrial loan company under the provisions of section 6782L of the Revised Laws of Hawaii 1935, if an industrial loan with a face amount equal to the time balance named in the retail installment contract for the same period had been paid or refinanced on the same date.

[Sec. 7355.26.] Section 26. **Act prospective only.** This Act shall not apply to conditional sales made prior to the time it takes effect.

[Sec. 7355.27.] Section 27. **Rules for cases not provided for.** In any case not provided for in this Act, the rules of law and equity, including the law merchant, and in particular those relating to principal and agent and to the effect of fraud, misrepresentation, duress or coercion, mistake, bankruptcy, or other invalidating cause, shall continue to apply to conditional sales.

[Sec. 7355.28.] Section 28. **Penalties for violation.** Any person who shall wilfully or knowingly violate any of the provisions of this Act for which there is no other penalty specifically provided therein shall be liable upon conviction to pay a fine of not less than ten dollars (\$10.00) and not more than five hundred dollars (\$500.00) for each such violation, and any buyer may recover from the seller all actual damages incurred by reason of the violation of any provision hereof and in addition a reasonable attorney's fee to be allowed by the court; provided, however, that where any conditional sale contract shall be assigned to any bona fide purchaser for value without notice of any violation of this Act, all actions for violation of the provisions hereof shall be brought in a separate action against the seller or other person who shall have caused such violation and shall not constitute a cause of action by way of set-off or counterclaim, or a defense by way of recoupment against any such assignee.

[Sec. 7355.29.] Section 29. **Industrial loan Act.** Nothing in this Act shall be construed as in any way modifying or altering the provisions of chapter 223A, Revised Laws of Hawaii 1935, as amended, and the provisions of this Act shall not be applicable to loans made by industrial loan companies within the meaning of section 6782M, Revised Laws of Hawaii 1935.

Section 30. **Time of taking effect.** This Act shall take effect on January 1, 1942.

(Approved November 14, 1941.) S. B. 7, Act 98.

Title XXVI. MISCELLANEOUS TERRITORIAL PROVISIONS.

CHAPTER 253. FARM LOANS

[D-52] An Act to Amend Chapter 253 of the Revised Laws of Hawaii 1935, Relating to Farm Loans, by Amending Section 7763 Thereof and Adding Thereto Three New Sections to be Numbered 7764-A, 7764-B, and 7764-C, Respectively, Reducing the Rate of Interest on Loans and Providing for the Reamortization of Indebtedness to the Farm Loan Board.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 7763** of chapter 253 of the Revised Laws of Hawaii 1935, as amended, is hereby further amended:

(a) By deleting the words and figures "five per centum (5%)" in lines 3 and 4 and lines 6 and 7 of paragraph numbered 2 of said section, as amended by Act 170 of the Session Laws of Hawaii 1939, and inserting in lieu thereof the words and figures "three per centum (3%)".

(b) By deleting the word "five" in line 2 of paragraph numbered 8 of said section, as amended by Act 66 of the Session Laws of Hawaii 1935, and inserting in lieu thereof the word "three".

(c) By deleting the word "five" in line 10 of paragraph numbered 8 of said section, as amended by Act 170 of the Session Laws of Hawaii 1939, and inserting in lieu thereof the word "three".

Section 2. Chapter 253 of the Revised Laws of Hawaii 1935, as amended, is hereby further amended by adding thereto a new section to be numbered 7764-A and to read as follows:

"Sec. 7764-A. Reamortization of indebtedness. Any person or persons, whether an original debtor or a successor in interest of an original debtor or otherwise, indebted to the farm loan board of Hawaii upon any note or for any loan made prior to the effective date of this section, shall be entitled to a reamortization of such indebtedness upon filing an application therefor with the farm loan board within six months after the effective date of this section.

“Upon the filing of such application the farm loan board shall determine the amount of principal and interest which would have been paid on the indebtedness covered by such application during the life of the note or other evidence of such indebtedness, had the terms of such note or other evidence of such indebtedness been duly performed according to their tenor; provided, however, that in determining such amount a rate of interest of three per centum shall be used, regardless of the original rate of interest provided for in the note or other evidence of such indebtedness; and provided, further, that if the note or loan upon which the applicant is indebted to the farm loan board represents a refinancing of indebtedness under an earlier note or loan, including all cases where such refinancing was done by note or other evidence of indebtedness by successors in interest of the original debtor, the note or loan shall be considered, for the purposes of this section, to have been made as of the date of such earlier note or loan, and the amount of principal and interest which would have been paid on such indebtedness shall be determined according to the terms of such earlier note or loan as if there had been no refinancing, except that a rate of interest of three per centum shall be used regardless of the terms of such earlier note or loan, and except that, if such refinancing involved the loan of additional sums of money, such additional loan shall be treated as a separate loan made at the time of such refinancing; and provided, further, that in cases where the original note or loan upon which the applicant is indebted to the farm loan board has not matured as of the effective date of this section, interest shall be calculated only from the inception of such note or loan as herein determined to the effective date of this section. From the amount so determined there shall be deducted in each case all moneys that have been paid to the farm loan board on account of principal and interest on such note or loan. The balance thus determined shall be the total amount remaining due and payable upon such note or loan, any other terms, conditions or provisions of such note or loan, or any provisions of law, to the contrary notwithstanding; provided, however, that nothing herein contained shall be deemed to excuse the payment of taxes and other charges and assessments upon property mortgaged as security for such note or loan, nor to excuse or modify any term, condition, or provision of the note or mortgage or any other instrument evidencing the loan, other than such as relate to the principal and interest payable to the farm loan board.

“The total amount remaining due and payable as hereinabove determined shall be payable in fifteen equal biennial installments, together with interest at three per centum per annum upon bal-

ances due, to be computed from the effective date of this section and to be payable semi-annually; provided, however, that nothing herein contained shall prevent additional payments, or an extension of time for regular payments in the discretion of the board, both as provided by paragraph two of section 7763 of this chapter. The first payment on account of principal shall be due two years subsequent to the effective date of this section and thereafter the due dates of payments on account of principal shall be at regular two-year periods. The first payment on account of interest shall be due one year subsequent to the effective date of this section and thereafter the due dates of payments on account of interest shall be at regular six-month periods.

“In case of default in payments of principal or interest on the due dates as hereby fixed, the farm loan board may proceed as in any case of a default, as provided by law and by the note or mortgage or other instrument evidencing the loan.

“When the aforesaid payments have been made to the farm loan board, and all taxes, charges and assessments upon property mortgaged as security for the loan have been paid, and all other terms, conditions, and provisions stipulated in the note or mortgage or any other instrument evidencing the loan have been complied with, except as herein excused or modified, the borrower shall be entitled to a release and satisfaction of the note or mortgage or other instrument evidencing the loan, the same as if there had been full performance according to the original terms of the loan.”

Section 3. Chapter 253 of the Revised Laws of Hawaii 1935, as amended, is hereby further amended by adding thereto a new section to be numbered 7764-B and to read as follows:

“Sec. 7764-B. Reduction of interest. The farm loan board shall, immediately upon the taking effect of this Act, reduce the rate of interest on all loans heretofore made by it and still outstanding, so that such rate shall henceforth be three per centum as to interest hereafter accruing. The farm loan board shall also adjust all loans made prior to the effective date of this section, for which application for reamortization is not made as provided by section 7764-A, by recalculating interest due up to the effective date of this section on the basis of three per centum, and by reallocating payments made toward such loans up to the effective date of this section between principal and interest as if the original rate of interest on such loans had been three per centum, for which purpose any payments on interest made prior

to the effective date of this section on such loans in excess of the amount of interest due and payable at the time of such payment on the basis of three per centum shall be credited to principal as of the date of such payment, and the amount as so adjusted shall be the total amount remaining payable on such loan and accrued interest, any other terms, conditions or provisions of any note or other evidence of such loan, or any provisions of law, to the contrary notwithstanding; provided, however, that nothing herein contained shall be deemed to excuse the payment of taxes and other charges and assessments upon property mortgaged as security for such loan, nor to excuse or modify any term, condition, or provision of the note or mortgage or other instrument evidencing such loan, other than such as relate to the principal and interest payable to the farm loan board."

Section 4. Chapter 253 of the Revised Laws of Hawaii 1935, as amended, is hereby further amended by adding thereto a new section to be numbered 7764-C and to read as follows:

"Sec. 7764-C. Application of adjustments and payments. Nothing contained in section 7764-A or section 7764-B of this chapter shall entitle any person to, nor shall any person receive, any refund or reimbursement on account of any payment to the farm loan board in excess of the amount or amounts determined to be due and payable as provided by said sections. All applications under section 7765 of this chapter of moneys heretofore received by the farm loan board in payment of principal and interest on loans heretofore made are hereby ratified and confirmed, and no change in such applications shall be effected by anything contained in said sections 7764-A and 7764-B. For the purposes of sections 7765 to 7768, inclusive, of this chapter, the payments made on account of the redetermined balance due, as provided by section 7764-A of this chapter, shall be treated as payments of principal until there has been full repayment of the original amount of principal, and any excess over the original amount of principal shall be credited as payments of interest together with the three per centum interest provided by said section."

Section 5. All laws or parts of laws inconsistent with the provisions of this Act or of any other law as amended by this Act, are hereby amended to conform to this Act and to said other law as amended by this Act.

Section 6. This Act shall take effect upon its approval.

(Became effective October 19, 1941, without the Governor's signature.) **S. B. 9, Act 70.**

**CHAPTER 254B. HAWAII
TERRITORIAL GUARD.**

[D-53] An Act to Provide for a Territorial Guard and to Make an Appropriation Therefor.

WHEREAS, at the regular session of 1941 the legislature enacted Act 125 providing for a territorial guard; and

WHEREAS, at the time of enactment thereof section 61 of the National Defense Act of June 3, 1916, as amended by Public Number 874 of the seventy-sixth Congress, third session, chapter 904, relating to the organization of military forces other than national guard, referred only to "states"; and

WHEREAS, subsequent to the enactment of said Act 125 of the Session Laws of Hawaii 1941, said section 61 of the National Defense Act was further amended by Public Number 214 of the seventy-seventh Congress, first session, chapter 363, so as to refer also to "any territory", now therefore

Be it Enacted by the Legislature of the Territory of Hawaii:

[Sec. 7775.] Section 1. **Authority; name.** Whenever any part of the national guard of the Territory is in active federal service, the governor is hereby authorized to organize and maintain within the Territory during such period, under such regulations as the secretary of War of the United States may prescribe for discipline in training, such military forces as the governor may deem necessary to defend this Territory. Such forces shall be composed of officers commissioned or assigned, and such able-bodied male citizens of the Territory as shall volunteer for service therein, supplemented, if necessary, by men of the reserve militia enrolled by draft or otherwise as provided by law. Such forces shall be additional to and distinct from the national guard and shall be known as the "Hawaii Territorial Guard". Such forces shall be uniformed.

[Sec. 7775-A.] Section 2. **Organization; rules and regulations.** The governor is hereby authorized to prescribe rules and regulations not inconsistent with the provisions of this Act governing the enlistment, organization, administration, equipment, maintenance, training and discipline of such forces: Provided, such rules and regulations, insofar as he deems practicable and desirable, shall conform to existing law governing and pertaining to the national guard and the rules and regulations promulgated thereunder and shall prohibit the acceptance of gifts,

donations, gratuities or anything of value by such forces or by any member of such forces from any individual, firm, association, or corporation by reason of such membership.

[**Sec. 7775-B.**] Section 3. **Pay.** Commissioned officers, warrant officers and enlisted men, while on active duty, shall be paid at the same rates as members of the national guard are then being paid under federal law while in active federal service; provided, that in no event shall they be paid for such active duty at rates which are higher than those now provided by law for active duty in the service of the Territory by members of the Hawaii National Guard.

[**Sec. 7775-C.**] Section 4. **Requisitions; armories; other buildings.** For the use of such forces, the governor is hereby authorized to requisition from the secretary of War such arms and equipment as may be in possession of and can be spared by the War Department; and to make available to such forces the facilities of territorial armories and their equipment and such other territorial premises and property as may be available.

[**Sec. 7775-D.**] Section 5. **Federal service.** Nothing in this Act shall be construed as authorizing such forces, or any part thereof, to be called, ordered or in any manner drafted, as such, into the military service of the United States, but no person shall by reason of his enlistment or commission in any such forces be exempted from military service under any law of the United States.

[**Sec. 7775-E.**] Section 6. **Civil groups.** No civil organization, society, club, post, order, fraternity, association, brotherhood, body, union, league, or other combination of persons or civil group shall be enlisted in such forces as an organization or unit.

[**Sec. 7775-F.**] Section 7. **Disqualifications.** No person shall be commissioned or enlisted in such forces who is not a citizen of the United States or who has been expelled or dishonorably discharged from any military or naval organization of this Territory, or of a state, or of the United States.

[**Sec. 7775-G.**] Section 8. **Oath of officers.** The oath to be taken by officers commissioned in such forces shall be substantially in the form prescribed for officers of the national guard, substituting the words "Hawaii Territorial Guard" where necessary.

[**Sec. 7775-H.**] Section 9. **Enlisted men.** No person shall be enlisted for more than one year, but such enlistment may be

renewed. The oath to be taken upon enlistment in such forces shall be substantially in the form prescribed for enlisted men of the national guard, substituting the words "Hawaii Territorial Guard" where necessary.

[**Sec. 7775-I.**] Section 10. **Articles of War.** Freedom from arrest; jury duty. (a) Whenever such forces or any part thereof shall be ordered out for active service the Articles of War of the United States applicable to members of the national guard of this Territory in relation to courts martial, their jurisdiction and the limits of punishment and the rules and regulations prescribed thereunder shall be in full force and effect with respect to the Hawaii Territorial Guard.

(b) No officer or enlisted man of such forces shall be arrested on any warrant, except for treason or felony, while going to, remaining at, or returning from a place where he is ordered to attend for military duty. Every officer and enlisted man of such forces shall, during his service therein, be exempt from service upon any posse comitatus and from jury duty.

[**Sec. 7775-J.**] Section 11. [**Appropriation.**] The sum of \$50,000.00 is hereby appropriated out of the general revenues of the Territory for the purposes of this Act. The amount hereby appropriated shall be paid by the treasurer of the Territory upon warrants based upon vouchers which are approved by the governor or by any officer or officers of the Hawaii Territorial Guard whom the governor has authorized to make such approval.

[**Sec. 7775-K.**] Section 12. **Severability.** If any provision of this Act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

Section 13. **Repeal.** All Acts and parts of Acts inconsistent with the provisions of this Act are hereby repealed.

[**Sec. 7775-L.**] Section 14. **Short title.** This Act may be cited as the "Hawaii Territorial Guard Act".

Section 15. **Time of taking effect.** This Act shall take effect upon its approval.

(Approved October 29, 1941.) S. B. 65, Act 84.

CHAPTER 259. PENSIONS.**Note to Section 7917.**

[D-54] An Act Amending Act 161 of the Session Laws of Hawaii 1927, as Amended, Providing Pensions for Certain Veterans of the Hawaii Guard 1893-1898.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Act 161 of the Session Laws of Hawaii 1927, as amended, is hereby further amended by amending section 4 thereof to read as follows:

“Section 4. If any beneficiary hereunder is in receipt of any other pension or relief from the territory or any political subdivision thereof, he shall not receive in any case more than the difference between such other monthly pension or relief and the sum of forty dollars.”

Section 2. This Act shall take effect upon the first day of the month following its approval.

(Approved October 9, 1941.) **H. B. 38, Act 45.**

[D-55] An Act to Amend Act 237 of the Session Laws of Hawaii 1937, as Amended, Relating to the Granting of Pensions to Certain County Employees and Their Widows, and Providing that Pensions Heretofore Granted be Increased to Conform to such Amendment.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Act 237 of the Session Laws of Hawaii 1937, as amended, is hereby further amended by amending section 4 thereof to read as follows:

[Sec. 7919-C.] “Section 4. **Amount.** No pension under said system except an accidental disability pension shall be granted or paid which shall exceed the annual amount of one-seventieth (1/70) of the average annual salary or compensation received by the person to whom such pension is granted during the last ten (10) years of his employment by the city and county or county, multiplied by the number of years during which such person was in the employment or service of such city and county or county; provided, however, notwithstanding any other provisions of this Act, and regardless of the computed amount, any person or widow elig-

ible to a pension shall be granted and paid not less than thirty dollars (\$30.00) per month." [L. 1937, c. 237, s. 4; am. Sp. L. 1941, c. 59, s. 1.]

Section 2. Pensions heretofore granted under the provisions of Act 237 of the Session Laws of Hawaii 1937, as amended, in an amount of less than thirty dollars (\$30.00) per month, shall, on the effective date of this Act, be increased to thirty dollars (\$30.00) per month, and the boards of supervisors of the several counties shall appropriate sufficient funds for the payment of such increases.

Section 3. This Act shall take effect upon its approval.

(Approved October 14, 1941.) S. B. 41, Act 59.

CHAPTER 259BB. LABOR: APPRENTICE.

[D-56] An Act Providing for a System of Apprenticeship Whereby Voluntarily Made Agreements of Apprenticeship Would be Encouraged; Establishing Standards for Such Agreements; Creating an Apprenticeship Council and a Director of Apprenticeship and Defining Their Duties and the Duties of the Director of Labor and Industrial Relations Hereunder, and Making an Appropriation Therefor.

Be it Enacted by the Legislature of the Territory of Hawaii: D/63
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[Sec. 7919B.01.] Section 1. **Apprenticeship Council.** (a) The Governor of the Territory of Hawaii, as provided by section 80 of the Organic Act, shall appoint an Apprenticeship Council, composed of three persons who, on account of previous vocation, employment, occupation or affiliation, can be classed as employers and three persons who, on account of previous vocation, employment, occupation or affiliation, can be classed as employees. The terms of office of the members of the Apprenticeship Council first so appointed shall be as follows: One representative each of the employer and employee shall be appointed for one year, two years, and three years respectively. Thereafter, each member shall be appointed for a term of three years. Each member shall hold office until his successor is appointed and has qualified, and any vacancy shall be filled by appointment for the unexpired portion of the term. The official who has been designated by the Territorial Department of Public

Instruction as being in charge of trade and industrial education and the official who has immediate charge of the Territorial Public Employment Service shall ex officio be members of said Council, without vote. Each member of the Council, not otherwise compensated by public moneys, shall be reimbursed for their actual traveling and other expenses incurred in the performance of their duties.

(b) Subject to the approval of the Director of Labor and Industrial Relations the Apprenticeship Council shall: (1) establish standards for apprenticeship agreements in conformity with the provisions of this Act; (2) issue such rules and regulations as may be necessary to carry out the intent and purposes of this Act; and (3) perform such other duties as are hereinafter imposed. Not less than once a year the Apprenticeship Council shall make a report through the Director of Labor and Industrial Relations of its activities and findings.

[Sec. 7919B.02.] Section 2. Director of Apprenticeship and Other Personnel. Subject to the confirmation of the Territorial Apprenticeship Council by a majority vote, the Director of Labor and Industrial Relations shall appoint a Director of Apprenticeship who, under the supervision of the Director of Labor and Industrial Relations and with the advice and guidance of the Apprenticeship Council, shall: (1) encourage and promote the making of apprenticeship agreements conforming to the standards established by or in accordance with this Act; (2) act as secretary of the Apprenticeship Council and of Territorial Joint Apprenticeship Committees; (3) when so authorized by the Apprenticeship Council, register such apprenticeship agreements as are in the best interests of the apprenticeship and conform to the standards established by or in accordance with this Act; (4) keep a record of apprenticeship agreements and upon performance thereof issue certificates of completion of apprenticeship; (5) terminate or cancel any apprenticeship agreements in accordance with the provisions of such agreements; and who (6) may act to bring about the settlement of differences arising out of the apprenticeship agreement where such differences cannot be otherwise adjusted locally.

Related and supplemental instruction for apprentices, coordination of instruction with job experiences, and the selection and training of teachers and coordinators for such instruction shall be the responsibility of the Vocational Division, Territorial Department of Public Instruction.

The Director of Labor and Industrial Relations is authorized to appoint such other personnel as may be necessary to aid the

Apprenticeship Council and the Director of Apprenticeship in the execution of their functions under this Act.

[Sec. 7919B.03.] Section 3. **Joint Apprenticeship Committees.** Local, County and Territorial Joint Apprenticeship Committees may be approved, in any trade, group of trades, or in trade areas, by the Apprenticeship Council, whenever the apprentice training needs of such trade or group of trades justifies such establishment. Such Joint Apprenticeship Committees shall be composed of an equal number of persons known to represent the interests of employers and of employees, respectively, or a Territorial Joint Apprenticeship Committee may be approved as, or the Council may act itself as, the Joint Committee in such trade or group of trades. Subject to the review of the Council and in accordance with the standards established by this Act and by the Council, such committees shall devise standards for apprenticeship agreements and give such aid as may be necessary in their operation, in their respective trades and localities.

[Sec. 7919B.04.] Section 4. **Standards for Apprenticeship Agreements.** Standards for apprenticeship agreements are as follows:

(1) A statement of the trade or craft to be taught and the required hours for completion of apprenticeship which shall be not less than 4000 hours of reasonably continuous employment.

(2) A statement of the processes in the trade or craft divisions in which the apprentice is to be taught and the approximate amount of time to be spent at each process.

(3) A statement of the number of hours to be spent by the apprentice in work and the number of hours to be spent in related and supplemental instruction, which instruction shall be not less than 144 hours per year.

(4) A statement that apprentices shall be not less than 16 years of age.

(5) A statement of the progressively increasing scale of wages to be paid the apprentice.

(6) Provision for a period of probation during which the Apprenticeship Council, or the Director of Apprenticeship when authorized by the Council, shall be directed to terminate an apprenticeship agreement at the request in writing of any party thereto.

(7) Provision that after the probationary period the Apprenticeship Council, or the Director of Apprenticeship, when authorized by the Council, shall be empowered to terminate an apprenticeship agreement upon agreement of the parties thereto.

(8) Provision that the services of the Director and the Apprenticeship Council may be utilized for consultation regarding the settlement of differences arising out of the apprenticeship agreement, where such differences cannot be adjusted locally or in accordance with the established trade procedure.

(9) Provision to specify the ratio of apprentice to journeymen.

(10) Provision that if an employer is unable to fulfill his obligation under the apprenticeship agreement, he may transfer such obligation to another employer.

(11) Such additional standards as may be prescribed in accordance with the provisions of this Act.

[Sec. 7919B.05.] Section 5. Apprenticeship Agreements. For the purposes of this Act an apprenticeship agreement is: (1) An individual written agreement between an employer and apprentice, or (2) a written agreement between an employer, or an association of employers, and an organization of employees describing conditions of employment for apprentices, or (3) a written statement describing conditions of employment for apprentices in a plant where there is no bona fide employee organization.

All such agreements shall conform to the basic standards and other provisions of this Act.

[Sec. 7919B.06.] Section 6. Limitation. The provisions of this Act shall apply to a person, firm, corporation or craft only after such person, firm, corporation or craft has voluntarily elected to conform with its provisions.

Section 7. **Repeal.** All Acts or parts of Acts that conflict with this Act are hereby repealed.

Section 8. **Separability.** If any provision of this Act, or the application thereof to any persons or circumstances, is held invalid, the remainder of the Act, and the application of such provision to the persons and circumstances, shall not be affected thereby.

Section 9. **Appropriation.** There is hereby appropriated from the general fund of the Territory of Hawaii for the period ending June 30, 1943, the sum of ten thousand dollars (\$10,000.00) for the expenses of the Director of Apprenticeship and the Apprenticeship Council.

Section 10. This Act shall take effect upon its approval.

(Approved October 3, 1941.) **S. B. 26, Act 23.**

**CHAPTER 259C-1. LABOR:
WAGES AND HOURS OF LABOR.**

[D-57] An Act Relating to Labor; Adding to Title XXVI of the Revised Laws of Hawaii 1935, a New Chapter Providing for the General Welfare and Protecting the Health, Efficiency and General Well-Being of Workers in the Territory of Hawaii by Providing for the Elimination of Wage and Hour Standards Detrimental to the Health, Efficiency and General Well-Being of Workers, Prescribing Minimum Wage and Maximum Hour Standards, and Providing for the Further Determination and Establishment of Minimum Wages by Industry; Providing for Enforcement of Such Provisions and Prescribing the Powers and Duties of the Commission and the Director of Labor and Industrial Relations Under this Act; Prescribing Penalties for Violations of This Act or of Orders, Rules, or Regulations Authorized Hereunder, and for Divulging Confidential Information.

[Sic]

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. There is hereby added to Title XXVI of the Revised Laws of Hawaii 1935, a new chapter to be numbered chapter 259-C, reading as follows:

"Chapter 259-C. Wages and Hours of Labor.

[Sec. 7919-EA.] "Sec. 1. **Declaration of policy.** It is declared to be the policy of this chapter (1) to establish minimum wage and maximum hour standards at levels consistent with the public health, efficiency and general well-being of workers, and (2) to safeguard existing minimum wage and maximum hour standards which are adequate to the health, efficiency and general well-being of workers from the effects of the serious and unfair competition resulting from wage and hour standards detrimental to the health, efficiency and general well-being of workers, and (3) to increase employment opportunities.

[Sec. 7919-EB.] "Sec. 2. **Definitions.** As used in this chapter:

"(a) 'Commission' means the commission of labor and industrial relations.

"(b) 'Director' means the director of labor and industrial relations.

"(c) 'Employ' includes to permit or suffer to work.

"(d) 'Employer' includes any individual, partnership, association, corporation, business trust, legal representative, or any

organized group of persons, acting directly or indirectly in the interest of an employer in relation to an employee, but shall not include the Territory of Hawaii or any political subdivision thereof or the United States.

“(e) ‘Employee’ includes any individual employed by an employer, but shall not include any individual employed (1) at a guaranteed monthly salary of one hundred fifty dollars (\$150.00) or more, (2) in agriculture, (3) in domestic employment in or about a private home, (4) by his son, daughter or spouse, or by his father or mother if said individual is under the age of twenty, (5) in a bona fide executive, administrative, supervisory, or professional capacity or in the capacity of outside salesman, or as an outside collector, (6) in the catching, taking, harvesting, cultivating or farming of any kind of fish, shellfish, crustacea, sponges, seaweeds or other aquatic forms of animal and vegetable life, including the going to and returning from work and including employment in the loading, unloading, or packing of such products for shipment or in propagating, processing, marketing, freezing, canning, curing, storing, or distributing the above products or by-products thereof, (7) by a street, suburban or interurban electric railway or local trolley or motor bus carrier, (8) as a seaman, or (9) in any capacity if by reason of his employment in such capacity and during the term thereof, the minimum wage which may be paid such employee or maximum hours which such employee may work during any work week without the payment of overtime, are prescribed by the Federal Fair Labor Standards Act of 1938, or as the same may be amended from time to time.

“(f) ‘Industry’ means a trade, business, industry, or branch thereof, or group of industries in which individuals are employed.

“(g) ‘Wage’ means (except as the commission of labor and industrial relations may provide under section 8) legal tender of the United States, or checks on banks convertible into cash on demand at full face value thereof and in addition thereto the reasonable cost as determined by the commission, to the employer of furnishing an employee with board, lodging or other facilities if such board, lodging or other facilities are customarily furnished by such employer to his employees but shall not include tips or gratuities of any kind.

“(h) ‘Week’ means any period of seven (7) consecutive days.

“(i) ‘Agriculture’ means agriculture as defined in section 3 (f) of the Federal Fair Labor Standards Act of 1938, or as the same may be amended from time to time.

[Sec. 7919-EC.] "Sec. 3. **Minimum wages:**

"(a) Every employer, except as the director may provide pursuant to section 6 of this chapter, shall pay to each employee employed by him wages at the following rates:

"(1) Immediately upon this section becoming effective, not less than twenty cents (20c) an hour in each of the counties of Hawaii, Maui and Kauai and not less than twenty-five cents (25c) an hour in the city and county of Honolulu.

"(b) This section shall take effect upon April 1, 1942.

[Sec. 7919-ED.] "Sec. 4. **Maximum hours.**

"(a) No employer shall employ any employee, after the effective date of this section, in excess of forty-eight (48) hours a week, unless such employee receives compensation for employment in excess of such weekly hours, at a rate not less than one and one-half times the regular rate at which he is employed.

"(b) No employer shall employ any employee in split shifts unless all of said shifts within a period of twenty-four (24) hours shall fall within a period of fourteen (14) consecutive hours, except in case of extraordinary emergency.

"(c) This section shall take effect upon April 1, 1942.

[Sec. 7919-EE.] "Sec. 5. **Investigations; inspections; records.**

"(a) The director is authorized, and it shall be his duty, to enforce the provisions of this chapter. For administrative purposes, there is hereby created within the bureau of labor law enforcement of the department of labor and industrial relations a wage and hour division. Said division shall be under the supervision of the assistant in charge of said bureau. The director shall have the authority to appoint such assistants and such clerical, stenographic and other help as may be necessary for the proper enforcement of this chapter subject to any civil service Act relating to territorial employees. The salaries of all of the foregoing appointees and employees shall be as fixed by law.

"(b) Every employer shall keep in or about the premises wherein any employee is employed a record of the name, address and occupation of each such employee, of the amount paid each pay period to each such employee, of the hours worked each day and each work week by each such employee, and of such other information and for such periods of time as the commission may by regulation prescribe. The director or his authorized representative shall for the purpose of examination have access to

and the right to copy from such records. Every employer shall furnish to the director or his authorized representative such information relating to the employment of workers and in such manner as the commission may prescribe. The director shall cause this chapter to be printed and copies thereof shall be furnished to interested persons upon request without charge. Copies of orders of the director and of rules and regulations of the commission shall also be furnished to employers affected thereby without charge.

“(c) Any employer who wilfully hinders or delays the director or his authorized representative in the performance of his duties in the enforcement of this chapter; or who wilfully refuses to admit the director or his authorized representative to any place of employment; or who fails to keep or who falsifies any record required under the provisions of this section or who refuses to make such records accessible or to give information required for the proper enforcement of this chapter, upon demand, to the director or his authorized representative shall upon conviction thereof be punished by a fine of not more than five hundred dollars (\$500.00) or by imprisonment for not more than ninety (90) days, or by both such fine and imprisonment.

“(d) Any information secured from inspection of the records (or from transcriptions or from the taking of transcriptions thereof) or from inspection of the employer's premises by the director or his authorized representative may be used in connection with their official duties or within the scope and course of their employment but not otherwise, and shall not be divulged to others than officials concerned with the administration of this chapter, or in a proceeding in court provided by this chapter.

[Sec. 7919-EF.] “Sec. 6. Learners; apprentices; handicapped workers.

“The director may by orders provide for the employment, under special certificates issued pursuant to regulations of the commission, (1) of learners, at such wages lower than the applicable minimum wage and subject to such limitations as to time, number, proportion and length of service as the commission shall prescribe, (2) of apprentices, at such wages lower than the applicable minimum wage as the commission shall prescribe, provided that if a territorial apprenticeship council shall be created by law, such wages shall be subject to approval by the territorial apprenticeship council, and (3) of individuals whose earning capacity is impaired by old age or physical or mental deficiency or injury, at such wages lower than the ap-

plicable minimum wage and for such period as shall be fixed in such certificates.

[Sec. 7919-EG.] "Sec. 7. Oaths; affidavits; subpoenas.

"(a) The director or his authorized representative, shall have the power to administer oaths, to take or cause to be taken the depositions of witnesses, and to require by subpoena the attendance and testimony of witnesses and the production of all books, records and other evidence relative to any matter under investigation. Such subpoena shall be signed and issued by the director or his authorized representative. In cases of failure of any person to comply with any subpoena lawfully issued under this section or on the refusal of any witness to produce evidence or to testify to any matter regarding which he may be lawfully interrogated, it shall be the duty of any circuit court, or the judge thereof, upon the application of the director or his authorized representative, to compel obedience by proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued by such court or a refusal to testify therein. The director shall have the power to certify to official acts.

"(b) No person shall be excused from attending and testifying or from producing books, papers, correspondence, memoranda, contracts, agreements, or other records and documents before the director or his authorized representative, or in obedience to the subpoena of the director or his authorized representative, or in any cause or proceeding instituted under this chapter, on the ground that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no individual shall be prosecuted or subject to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he is compelled to testify or produce evidence, documentary or otherwise, after having claimed his privilege against self-incrimination, except that such individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

[Sec. 7919-EH.] "Sec. 8. Rules and regulations.

"(a) The commission shall have the power to make, issue, amend and rescind such rules and regulations as are necessary or appropriate to carry out the provisions of this chapter. Such rules and regulations, without being limited thereto, and without limiting the generality of the foregoing, may define terms used in this chapter, may include such terms and conditions,

including the restriction or prohibition of industrial homework or of such other acts or practices, as the commission finds necessary or appropriate to carry out the purposes of this chapter, and to prevent the circumvention or evasion thereof and to safeguard the standards therein established; and shall include such partial or total restrictions or prohibitions on the employment (notwithstanding the payment of time and one-half the regular rate of pay) or employees in excess of the hours specified in section 4 (a) as the commission finds necessary to prevent the reduction of wage rates for the purpose of evading the penalizing effect of the overtime compensation provisions of section 4 (a) or the circumvention by other devices of the intent of section 4 (a) to reduce hours of labor; and shall provide for reasonable deductions from the minimum wage applicable under this chapter for board, lodging or other similar services furnished by an employer to his employees.

“(b) Rules and regulations of the commission issued pursuant to subsection (a) of this section which relate to industrial homework or to employment in excess of the hours specified in section 4 (a) shall be made only after notice to interested persons and a public hearing by the commission at which such persons may be heard.

“(c) Rules and regulations issued pursuant to this section shall take effect upon publication in such newspaper or newspapers as the commission deems reasonably calculated to give to interested persons general notice of such issuance.

[Sec. 7919-EI.] “Sec. 9. General supervision of commission.

“In exercising any power or performing any duty conferred or imposed by this chapter, the director shall in all respects be subject to the general supervision and control of the commission.

[Sec. 7919-EJ.] “Sec. 10. Penalty provisions; collection of unpaid wages.

“(a) Any person divulging information in violation of subsection (d) of section 5 of this chapter, or any employer who wilfully violates any provision of this chapter or of any rule, regulation, or order issued under the authority of this chapter, or who discharges or in any other manner discriminates against any employee because such employee has made any complaint to his employer, to the director, or to any other person, or has instituted or caused to be instituted any proceeding under or related to this chapter, or has testified or is about to testify in any such proceedings, shall, upon conviction therefor,

be punished by a fine of not more than five hundred dollars (\$500.00), or by imprisonment for not more than ninety (90) days, or by both such fine and imprisonment. Each day a violation shall continue shall constitute a separate offense.

“(b) (1) Any employer who violates any provision of section 3 or 4 of this chapter shall be liable to the employee or employees affected in the amount of their unpaid minimum wages, or unpaid overtime compensation, as the case may be, and except in cases of bona fide disagreement as to the amount of overtime in addition an equal amount of liquidated damages. For the purpose of this subsection, failure of an employer to pay an employee the minimum wage or overtime compensation, if any, required by sections 3 and 4, respectively, in full, within fifteen (15) days after the end of the customary pay period during which wages were earned, except in case of bona fide disagreement as to the amount of overtime, shall constitute prima facie evidence of a violation of such sections.

“(2) Action to recover such liability may be maintained in any court of competent jurisdiction by any one or more employees for and in behalf of himself or themselves and other employees similarly situated, or such employee or employees may designate an agent or representative to maintain such action for and in behalf of all employees similarly situated. The court in such action shall, in addition to any judgment awarded to the plaintiff or plaintiffs, in the event said plaintiff or plaintiffs shall prevail, allow a reasonable attorney's fee to be paid by the defendant, and costs of the action. At the request of any person paid less than the amount to which he is entitled under the provisions of this chapter, the director may take an assignment in trust for the assigning employee of the full amount to which he is entitled under this subsection and may bring any legal action necessary to collect such claim, and the employer shall be required to pay the costs and such reasonable attorney's fees as may be allowed by the court in the event the director shall prevail. The director shall not be required to pay the filing fee, or other costs, in connection with such action. The director, in case of suit, shall have power to join various claimants against the same employer in one cause of action.

“(c) Whenever it shall appear to the director that any employer is engaged in any act or practice which constitutes or will constitute a violation of any provision of this chapter, or of any provision of any regulation, he may in his discretion bring an action in the circuit court of the circuit in which it is charged the act or practice complained of occurred to enjoin

such act or practice and to enforce compliance with this chapter or with such regulation, and upon a proper showing, a permanent or temporary injunction or decree or restraining order shall be granted without bond.

[Sec. 7919-EK.] “Sec. 11. Right of collective bargaining protected.

“Nothing in this chapter shall be deemed to interfere with, impede, or in any way diminish the right of employees to bargain collectively through representatives of their own choosing in order to establish wages in excess of the applicable minimum under this chapter, or to establish hours of work shorter than the applicable maximum under this chapter.

[Sec. 7919-EL.] “Sec. 12. Territory-Federal cooperation.

“In the administration of this chapter, the commission and the director shall cooperate to the fullest extent consistent with the provisions of this chapter with the administrator of the Federal Fair Labor Standards Act of 1938.

[Sec. 7919-EM.] “Sec. 13. Short title. This chapter shall be known as the ‘Hawaii Wage and Hour Law’.

“Sec. 14. **Separability of provisions.** If any provision of this chapter, or the application thereof to any person or circumstance, is held invalid, the remainder of this chapter and the application of such provision to other persons or circumstances shall not be affected thereby.

[Sec. 7919-EN.] “Sec. 15. Relation to other laws. Nothing in this chapter shall in any way repeal or affect the validity of section 18, chapter 259B, Title XXVI, Revised Laws of Hawaii 1935.”

Section 2. This Act, except as otherwise provided herein, shall take effect upon its approval.

(Approved October 18, 1941.) **S. B. 30, Act 66.**

CHAPTER 260. RETIREMENT SYSTEM.

[D-58] An Act to Amend Subsection 7 of Section 7927, of Chapter 260, Revised Laws of Hawaii 1935, as Amended, Relating to County Contributions to the Employees' Retirement System of the Territory of Hawaii, and to Authorize the Use of the Fuel Tax Highway Fund for Such Contributions.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 7927**, Revised Laws of Hawaii 1935, as amended, is hereby further amended by amending subsections (a) and (b) of subsections 7 thereof to read as follows:

“(a) The board shall certify annually, to the board of supervisors of each county and to the treasurer and auditor of the Territory, the amount due from such county on account of its employees who are members of the system, segregated between the respective funds of such county out of which the compensation of such employees is paid, and the treasurer of the Territory shall pay such amount to the board, and the board shall credit such amount to the appropriate fund or funds of the system. Such payments shall be made out of the special fund for such county hereinafter provided for, upon warrants of the auditor of the Territory;

“(b) The board of supervisors of each county shall include in its annual budget for the fixing of the real property tax rate for the county, under the item designated as ‘(7) county contributions to the Employees' Retirement System of the Territory’, the amount certified to it by the board as due from the county for such year, including in the budget proper deductions from or additions to such amount as hereinafter provided, and offsetting against such amount, in such budget, the amount of other funds, if any, by the board estimated to be available for and intended to be applied on account of the total amount due from the county. Such amount shall be paid by such county into the territorial treasury on or before April 1st of such calendar year out of funds of such county available for the payment of payrolls, on the basis of the segregation certified to the county by the board, and the treasurer of the Territory shall place such amount in a special fund for such county. If such amount or any portion thereof is not paid by the county on the date aforesaid, the territorial treasurer shall retain out of the real property tax moneys collected for such year a sum equal to such amount

or portion thereof not so paid. All such moneys retained and collected by the territorial treasurer shall be deposited in a special fund for such county. Payments on account of the obligations of each county shall be made out of such fund. The amount of any excess or deficiency in such fund in meeting such obligation shall be subtracted from or added to, as the case may be, the amount due from such county for the succeeding year. The auditor and treasurer of the Territory shall in the month of January of each year, transmit to the treasurer of each county a joint statement showing the amount of receipts by and payments out of the special fund for such county and the amount of such excess or deficiency, if any."

Section 2. The provisions of subsection (5) of section 2021, Revised Laws of Hawaii 1935, as amended, shall not apply to any moneys in the fuel tax highway fund of any county used or to be used under the provisions of sections 7927 as amended by this Act.

Section 3. This Act shall take effect on the 1st day of January, 1942.

(Approved October 18, 1941.) **S. B. 51, Act 67.**

[D-59] An Act to Provide for the Granting of Service Credit and the Payment of Contributions to the Employees' Retirement System of the Territory of Hawaii in Behalf of Members in the Military Service of the United States During Such Service.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Every active member of the Employees' Retirement System of the Territory of Hawaii (hereinafter referred to as the retirement system) who was during any portion of the period from October 1, 1940 to the effective date of this Act, or who is now, or shall hereafter be, in the military service (which term as used in this Act shall include the National Guard, Naval and Coast Guard services) of the United States of America, shall, so long as he remained, or shall remain, in said military service, be allowed service credit in said system to the same extent as if he had been or were continuously in the active service of the territory, county (which term as used herein shall include the City and County of Honolulu) or Board of Water Supply of the

City and County of Honolulu, as the case may be, in the position which he held immediately prior to his induction (whether as a volunteer, a member of the reserve, a national guardsman, or as a selectee) into said military service.

The territory, county or Board of Water Supply of the City and County of Honolulu, as the case may be, in whose service such member was employed immediately prior to his induction into said military service, shall, so long as he shall remain in said military service pay all contributions both to the pension accumulation fund and to the annuity savings fund, and any other payments to said system, which would otherwise be payable to said system by the territory, the county, the Board of Water Supply of the City and County of Honolulu, or such member, if he were continuously in the active service of the territory, county or Board of Water Supply of the City and County of Honolulu, as the case may be.

Section 2. This Act shall take effect upon its approval.

(Became effective October 21, 1941, without the Governor's signature.) **H. B. 46, Act 72.**

[D-60] An Act to Provide for the Cancellation of Membership and Retirement Benefits of Paul Kaelemakule in the Employees' Retirement System of the Territory of Hawaii.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The trustees of the Employees' Retirement System of the Territory of Hawaii are hereby authorized and directed to cancel the membership and retirement benefits of Paul Kaelemakule in said System as of the date he was retired and to refund and pay to him, out of the annuity reserve fund of said System, the difference between (a) the amount of his present retirement allowance reserve in said annuity reserve fund; and (b) the total amount of his monthly annuities and pensions paid to him out of either the annuity reserve fund or the pension reserve fund up to the date of such refund.

Section 2. This Act shall take effect upon its approval.

(Became effective October 14, 1941, without the Governor's signature.) **H. B. 24, Act 57.**

CHAPTER 262B. HAWAII EQUAL RIGHTS COMMISSION.

[D-61] An Act to Amend Act 212 of the Session Laws of Hawaii 1935, as Amended, Relating to the Hawaii Equal Rights Commission, Making Appropriations Therefor, and Providing for New Appointments.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Act 212 of the Session Laws of Hawaii 1935, as amended, is hereby further amended by amending sections 1, 2, and 3 thereof to read as follows:

[Sec. 7979.] “Section 1. **Creation of commission.** There is hereby created a commission to be known as the Hawaii Equal Rights Commission to consist of the Governor of the Territory, who shall be ex-officio chairman of said commission, the Delegate to Congress from Hawaii, who shall be ex-officio a member of said commission, and five other members, not more than three of whom shall be of the same political party, to be appointed and be removable by the Governor in the manner provided by section 80 of the Hawaiian Organic Act. One of the appointive members shall serve for a term of one year, one for a term of two years, one for a term of three years, one for a term of four years, and one for a term of five years. The terms of all subsequent appointive members of the commission shall be for a term of five years and until their successors are appointed and qualified, except that a person appointed to fill a vacancy caused by death, resignation or otherwise, occurring prior to the expiration of such term, shall be appointed for the remainder of such term; provided, however, that all appointive members of the commission shall be individuals who have been known supporters of statehood for Hawaii. Meetings of said commission shall be held at the call of the chairman. The members shall serve without pay but shall receive their reasonable traveling and other necessary expenses. [L. 1935, c. 212, s. 1; am. L. 1939, c. 218, pt. of s. 1; am. Sp. L. 1941, c. 90, pt. of s. 1.]

[Sec. 7979-A.] “Section 2. **Powers and duties.** It shall be the duty of said commission:

“(1) to assemble, compile, and in its discretion, publish information or data intended to: (a) support the movement for admission of the Territory of Hawaii to statehood; (b) until such admission is granted, advocate and support the rights and claims of the territory and its inhabitants to treatment or usage the same as, or equal to, that received by the several states of the United

States from the federal government; (c) oppose and attempt to defeat or prevent federal and state legislation discriminatory against the territory and its inhabitants; and (d) assist the legislature in obtaining such amendments to the Hawaiian Organic Act or any other Acts of Congress as are duly requested by the legislature;

“(2) To vigilantly protect the territory and its inhabitants against unequal, unjust or discriminatory action, treatment or legislation by the federal government or state governments, including their political subdivisions;

“(3) To correct, prevent, or refute such misinformation or false statements regarding the territory and its inhabitants as may be disseminated, broadcast or published in the United States or elsewhere;

“(4) To oppose or prevent any discrimination that may arise in the United States or elsewhere against Hawaiian-born American citizens;

“(5) To appear, by all or such of its members, or by such members of its staff, or both, as are designated by the chairman, before committees of the Congress of the United States in regard to legislation affecting the territory when requested to do so by such committees, or the legislature, or the governor and the delegate to Congress;

“(6) To conduct investigations, at the direction either of the governor or of the legislature, concerning unequal or unjust treatment or usage of the territory or its inhabitants, the sources or reasons for misinformation or false statements regarding the territory or its inhabitants, or discrimination against the territory or its Hawaiian-born American citizens;

“(7) To appoint an executive secretary and such assistants as it deems necessary for the effectuation of its purposes at such salaries as may be fixed for such positions under any classification system operating upon territorial employees, and to contract for services which the said commission may deem necessary or advisable to better effectuate its powers and duties on such terms and conditions and for such compensation as the said commission may see fit;

“(8) To assist and cooperate with any bona fide citizens' organization formed for the purpose of accomplishing any of the objects embodied in the duties of this commission or its executive secretary;

“(9) To perform such other duties as the commission may, in its discretion, believe necessary or advisable in the promotion of the interest and welfare of the territory and the inhabitants thereof;

“(10) To prepare a biennial report and submit the same to the legislature at its regular sessions. [L. 1935, c. 212, s. 2; am. L. 1939, c. 218, pt. of s. 1; am. Sp. L. 1941, c. 90, pt. of s. 1.]

[**Sec. 7979-B.**] “Section 3. **Bureau of information; duties.** There shall be a bureau of information in and maintained by the commission called the bureau of information. The executive secretary of the commission shall administer the affairs of the bureau. The executive secretary shall, subject to the directions of the commission, have general supervision over the bureau. He shall exercise such powers and perform such duties as may from time to time be delegated to or required of him by the commission.

“The bureau shall be a bureau of general information concerning the territory. It shall compile and disseminate material concerning the territory’s status as an incorporated territory and an integral part of the United States. It shall also compile and disseminate material to support the granting of statehood to the territory. It shall also compile and disseminate material intended to correct or prevent such misinformation or false statements regarding the territory or its inhabitants as may be disseminated, broadcast or published in the United States, or elsewhere. It shall receive, record and tabulate complaints of territorial citizens, corporations, companies, associations and industries and of governmental offices, boards, commissions and agencies, of acts, threatened acts or instances of unequal or unjust treatment of the territory or of them by the federal or state governments or their respective officers or agencies, or of discriminatory federal or state action or legislation, or of discriminatory treatment or usage of Hawaiian-born American citizens, and it shall oppose and take such action, as the commission shall deem advisable and proper, to prevent such treatment, usage, action or legislation.

“The bureau shall diligently aid and assist any territorial citizen, corporation, company, association, industry, officer, board, commission or agency in opposing or preventing unequal, discriminatory or unjust treatment or usage of him or them by the federal or state governments, including their political subdivisions.” [L. 1935, c. 212, s. 3; am. L. 1937, c. 204, s. 1; am. L. 1939, c. 218, pt. of s. 1; am. Sp. L. 1941, c. 90, pt. of s. 1.]

Section 2. Appropriation. There is hereby appropriated from the general revenues of the territory for the purposes of this Act a sum of money sufficient, when added to the unexpended balance of any moneys appropriated for the use of the Hawaii Equal Rights Commission by any other Act of the territorial legislature, which unexpended balance shall be determined upon

the effective date of this Act, shall total the sum of forty thousand dollars (\$40,000.00), which total sum shall be available for expenditure by the commission for the period from the effective date of this Act to June 30, 1943 for the purposes of this Act. All expenditures under this Act shall be paid upon vouchers approved by the chairman. The per diem or other expenses of the members of the commission shall not be limited by the provisions of section 102 of the Revised Laws of Hawaii 1935, as amended.

Section 3. As soon as practicable after the effective date of this Act, the governor shall make new appointments of appointive members of the Hawaii Equal Rights Commission in conformity with the provisions of section 1 of said Act 212 as hereby amended, relating to the initial appointments of such members.

Section 4. This Act shall take effect upon its approval.

(Approved November 3, 1941.) H. B. 50, Act 90.

Title XXVII. BOND ACTS AND SINKING FUND.

CHAPTER 267A. REVENUE BOND ACT OF 1935.

[E-62] An Act Authorizing any Municipality or Other Political Subdivision in the Territory of Hawaii to Issue Revenue Bonds for Financing Revenue Producing Undertakings of Such Municipality or Other Political Subdivision, and Amending Act 174 of the Session Laws of the Territory of Hawaii, Regular Session of 1935, so as to Extend the Time Within Which Such Bonds May be Issued.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. All political subdivisions now or hereafter created in the Territory of Hawaii, including every county, the City and County of Honolulu, and the Board of Water Supply of the City and County of Honolulu, may and are hereby authorized to issue revenue bonds to finance in whole or in part the cost of the acquisition, purchase, construction, reconstruction, improvement, betterment or extension of any one or combination of two or more of the following:

water, sewerage, gas or electric, heat, light or powerworks, plants and systems, together with all parts thereof and appurtenances thereto, including, but not limited to, supply and distribution systems, reservoirs, dams, sewage treatment and disposal works and generating plants.

Said bonds shall be issued in the manner and pursuant to the proceedings provided in Act 174 of the Session Laws of Hawaii, Regular Session of 1935, and all of the provisions of said Act, as amended, shall be applicable to said bonds, their issuance and the application of revenue to the payment thereof and the interest thereon.

Section 2. Section 17 of Act 174 of the Session Laws of Hawaii, Regular Session of 1935, is hereby amended to read as follows:

[Sec. 8066P.] Section 17. **Termination of power to issue bonds.** Except in pursuance to any contract or agreement theretofore entered into by any municipality, no municipality shall borrow any money or deliver any bonds pursuant to this Act to the purchasers thereof after June 30, 1943.

Section 3. This Act shall take effect from and after the date of its approval.

(Approved October 3, 1941.) **H. B. 1, Act 20.**

CHAPTER 267C. **APPROPRIA- TIONS, GENERAL.**

[E-63] An Act to Amend Act 273 of the Session Laws of Hawaii 1941, Making Appropriations Out of the General Revenues for the Biennial Period Ending June 30, 1943, so Far as the Same Relates to the Hours on Sundays and Holidays During Which Libraries Shall Remain Open.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 1 of Act 273 of the Session Laws of Hawaii 1941, is hereby amended so that the clause relating to the hours during which libraries of the Territory shall remain open, as set forth under the heading "LIBRARIES" in section 1 of said Act, shall read as follows:

"Libraries participating in this appropriation in the city and county of Honolulu, shall remain open during at least three hours

on Sundays and on such legal holidays as may be designated by the trustees of each such library so as to meet the needs of the community which such library serves."

Section 2. This Act shall take effect upon its approval.

(Approved October 9, 1941.) **S. B. 49, Act 52.**

[E-64] An Act to Abolish the Position and Salary Now Paid to the Government Physician at Waiohinu, Kau, Hawaii, and to Appropriate Funds to Provide a Salary for a Government Physician for the District of Kau, Hawaii, for the Period Herein Specified.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The present position with those monies still unexpended as appropriated under Act 273, Session Laws of 1941, providing for a government physician at Waiohinu, Kau, Hawaii, are hereby abolished and there is hereby appropriated from the general revenues of the Territory of Hawaii, the sum of three thousand six hundred, seventy-five dollars (\$3,675.00) to provide a salary for a government physician for the District of Kau, Hawaii, for the period commencing October 1, 1941 and ending June 30, 1943.

Section 2. The government physician of the District of Kau will receive a salary of one hundred seventy-five dollars (\$175.00) per month from the designated amount.

Section 3. This Act shall take effect upon its approval.

(Approved October 17, 1941.) **H. B. 14, Act 63.**

[E-65] An Act Repealing Section 5 of Act 273 of the Session Laws of Hawaii 1941, Forbidding Territorial Employees to Work While on Vacation or Sick Leave.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 5 of Act 273 of the Session Laws of Hawaii 1941, is hereby repealed.

Section 2. This Act shall take effect upon its approval.

(Approved October 25, 1941.) **S. B. 64, Act 82.**

[E-66] An Act to Provide for the Study, Investigation, Conservation and Increase in Fish and Shellfish in and for the Territory of Hawaii, and for the Active Cooperation of the Board of Agriculture and Forestry of the Territory with the United States Fish and Wildlife Service, and Making an Appropriation Therefor.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The sum of twenty thousand dollars (\$20,000.00) or so much thereof as shall be necessary, is hereby appropriated out of the general revenues of the Territory, in addition to any other appropriation made by law for the same or similar purposes, to be expended by the board of commissioners of agriculture and forestry for the study, investigation, conservation and increase in fish and shellfish in and for the Territory, including, but without limitation upon the generality of the foregoing, the offshore fisheries, the inshore fisheries and the pond culture of food and bait fishes, and for the study of possibilities of improving methods of fishing, and means of utilization and distribution of fish and shellfish, for the purposes, among others, of making the Territory more nearly self-sustaining, and to assure gainful employment, a fair profit and a moderate cost to the consumer, and for the carrying out of any plans or methods for effectuating any and all of the foregoing.

The amount herein appropriated shall be expended only in the event that matching funds be provided by the Federal Government or in the event that provision is made by the Federal Government for the expenditure of a like sum for the program outlined in Investigational Report No. 42 of the United States Department of Commerce Bureau of Fisheries.

Section 2. In furtherance of the purposes of this Act, the board of commissioners of agriculture and forestry, either directly or through its division of fish and game, or both, is authorized to cooperate with the United States Fish and Wildlife Service, with other agencies of the Federal and Territorial Governments, and with individuals, public and private agencies, organizations and institutions, and the board may accept and use donations of real or personal property, including moneys and may accept other aid in or for the purpose of carrying out the objects of this Act.

Section 3. Subject to the limitation of section 1, the board is authorized to expend so much of the aforesaid appropriation as it shall find necessary for the employment of skilled technical personnel and the acquisition of supplies and equipment in and

for the division of fish and game, for the purposes of this Act, which personnel, and supplies and equipment may be in addition to those authorized by the general or any other appropriation Act.

Section 4. Subject to the limitation of section 1, the board may enter into such contracts with the bureau of fisheries or other federal, territorial, county, municipal or private agencies as it shall deem proper for the furtherance of the purposes of this Act.

Section 5. This Act shall take effect upon its approval.

(Approved September 29, 1941.) H. B. 10, Act 14.

[E-67] An Act to Reimburse the Estate of Ashley Joseph Cooper for Monies Expended by the Said Estate to Cover the Expenses Caused by the Illness and Death of the Said Ashley Joseph Cooper Who Died While Engaged in the Service of the Territory of Hawaii as an Arbitrator, Advisor and Representative of the Territorial Department of Labor and Industrial Relations.

WHEREAS, during that period of time between July 1940 and May 1941, a water-front strike on the Island of Kauai tied up the two ports of that island so that both incoming and outgoing freight could not be handled freely over these ports; and

WHEREAS, during that period, the public of Kauai suffered severe inconvenience because of their inability to ship and receive at will commodities over these two ports; and

WHEREAS, to alleviate these inconveniences, the residents of Kauai petitioned the Honorable Joseph B. Poindexter, Governor of Hawaii, to use his good influence and office in an effort to bring about an industrial peace and harmonious settlement between the interested labor and management responsible for these differences; and

WHEREAS, in answer to this petition, the Honorable Joseph B. Poindexter did select and appoint Ashley Joseph Cooper, a member of the Territorial Department of Labor and Industrial Relations to act as arbitrator and advisor to those parties interested in these labor and employment differences; and

WHEREAS, while engaged in this arduous work and because of the worries incidental to the duties connected therewith, the said Ashley Joseph Cooper suffered a severe heart attack and died as a result thereof although it is sincerely admitted by all the parties concerned that it was largely because of his service that the differences between the affected labor and management were amicably settled; and

WHEREAS, the Department of Labor and Industrial Relations is without legal authority to authorize the payment of the expenses of hospitalization and services incidental to the funeral of the said Ashley Joseph Cooper; now, therefore

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. That the sum of four hundred sixty-six and 40/100 dollars (\$466.40) be appropriated from any monies not otherwise appropriated in the treasury of the Territory of Hawaii to cover the expenses incurred by the estate of Ashley Joseph Cooper in connection with the hospitalization and funeral services of the said Ashley Joseph Cooper, whose illness and death took place on Kauai while he was engaged in the service of the citizens of Kauai and the Territory of Hawaii.

Section 2. This Act shall take effect upon its approval.

(Approved September 29, 1941.) **H. B. 8, Act 15.**

[E-68] An Act Appropriating Fifty Thousand Dollars From the Territorial General Fund to Reimburse the County of Hawaii for Moneys Advanced Under Act 183 of the Session Laws of Hawaii 1919, and Providing for the Disposition of Such Appropriation by Said County.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. There is hereby appropriated from the territorial general fund the sum of fifty thousand dollars (\$50,000.00), to reimburse the County of Hawaii that sum of money advanced by it pursuant to the provisions of Act 183 of the Session Laws of Hawaii 1919.

Section 2. So much of the aforesaid appropriation as shall be necessary to cover the principal and interest at five per cent (5%) per annum shall be used to reimburse advances made by individuals

and corporations for the Papaikou-Peppeekeo Road, and the remainder shall be paid into the road fund of the County of Hawaii, created by section 2158 of the Revised Laws of Hawaii 1935, for the purposes of said section.

Section 3. This Act shall take effect upon its approval.

(Approved October 9, 1941.) **H. B. 20, Act 53.**

[E-69] An Act Appropriating the Sum of Eighty Thousand Dollars (\$80,000.00) Out of the General Fund of the Territory of Hawaii and Designating the Purposes of such Appropriation.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The sum of eighty thousand dollars (\$80,000.00), or so much thereof as may be necessary, is hereby appropriated out of the general fund of the Territory of Hawaii, not otherwise appropriated, for the following purposes:

1. The filling of such areas or parcels of territorial lands situate at Kapalama-Kai and under the control of the commissioner of public lands, as may be designated by him, with dredged material excavated and removed in the development of Kapalama Basin by the United States of America\$30,000.00
2. The board of the hospitals and settlement 50,000.00.

Section 2. Said amount shall be expendable, as to item 1 of section 1, by the commissioner of public lands and shall be disbursed upon warrants drawn by the auditor based upon vouchers approved by the commissioner of public lands; and, as to item 2 of said section 1, by the board of hospitals and settlement, with the approval of the governor, in the manner provided by section 1144 of the Revised Laws of Hawaii 1935, provided, however, that all contracts entered into for the construction, reconstruction or repair of any buildings, and/or improvements under the appropriation contained in item 2 of section 1 of this Act, shall be entered into on behalf of the Territory by the superintendent of public works, with the approval of the board and of the governor, and that all payments made under or pursuant to any such contract shall be made upon vouchers approved jointly by the superintendent of public works and the chairman of the board, and provided, further, that the

provisions of chapter 4 of the Revised Laws of Hawaii 1935, as amended, and/or any other law imposing restrictions upon the expenditures of public moneys by contract or otherwise shall be and are hereby declared inapplicable to expenditures to be made under this Act.

Section 3. This Act shall take effect upon its approval.

(Approved October 17, 1941.) **S. B. 42, Act 61.**

[E-70] An Act Appropriating the Sum of Five Thousand Dollars (\$5,000.00) for the Delegate to the Congress of the United States from Hawaii for Necessary Expenses in Connection with the Performance of His Duties, and Waiving the Requirements of Certain Acts of the Legislature with Respect to the Expenditure of Said Moneys.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The sum of five thousand dollars (\$5,000.00) is hereby appropriated out of the general revenues of the Territory, not otherwise appropriated, for the Delegate to the Congress of the United States from Hawaii, to be expended by him, at his discretion, for such expenses, including the employment of clerks or assistants, purchase of equipment, materials and supplies and traveling expenses, as may arise out of the performance of his duties as such delegate.

Section 2. The sum hereby appropriated shall be paid in lump sum to said delegate upon a warrant issued by the auditor based upon a voucher signed by said delegate, and shall be expendable by him for the aforesaid purposes. Any act of the legislature heretofore or hereafter enacted with respect to civil service and personnel classification, retirement of territorial employees and residential qualifications, and relating to the purchase of goods, wares, merchandise, materials and supplies, or any act of the legislature relating to the expenditure of public moneys shall not apply to the expenditure of the moneys herein appropriated. The delegate shall submit to the legislature a report of his expenditure of the moneys herein appropriated.

Section 3. This Act shall take effect upon its approval.

(Became effective October 21, 1941, having been approved by the legislature over the veto of the Governor.) **S. B. 44, Act 77.**

[E-71] An Act Appropriating Funds from the General Revenues of the Territory to Compensate Persons for Damages Sustained by the Taking of Their Lands or Otherwise, in Connection with Certain Federal Aid Highway Projects Completed Previous to January 1, 1941.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. There are hereby appropriated out of the general revenues of the Territory, not otherwise appropriated, in addition to any other sums heretofore appropriated for any of the same purposes, the following respective amounts for the purpose of compensating persons for damages sustained, by the taking of their lands or otherwise, in connection with the following respective Federal Aid Highway Projects completed previous to January 1, 1941:

OAHU:

Kamehameha Highway FAP 1-A.....	\$23,905.30	
Kamehameha Highway FAP 1-B.....	448.60	
Kalaniana'ole Highway FAP 6-B & NRH 6-1	1,310.65	
Kaena Point Road WPSO 23-B.....	6,858.92	\$32,523.47

HAWAII:

South Kona Belt Road NRH 8-E & WPH 8-F	1,027.67	
Hawaii Belt Road WPH 8-F & FAP 8-G	786.45	
Hawaii Belt Road FAP 14-A.....	437.00	
Hawaii Belt Road NRH 14-C.....	1,630.55	\$ 3,881.67

MAUI:

Lahaina-Wailuku Road FAP 13-G.....	750.90	
Lahaina-Wailuku Road FAP 30-A.....	1,570.84	\$ 2,321.74

KAUAI:

Realignment of Kauai Belt Road through Hanapepe FAP 12-J To reimburse the Eleele Honpa Hongwanji Mission	981.00	\$ 981.00
Total		\$39,707.88

Section 2. In case the amount specified in any item of section 1 shall not be wholly required to complete the payment for all taking of and damages to land covered by such item, the unex-

pended balance may then be expended for any of the purposes covered by any other item of said section for which the amount hereinabove appropriated is found insufficient.

Section 3. The items hereby appropriated, or so much thereof as may be necessary, shall be expended by and under the superintendent of public works upon warrants drawn by the auditor upon vouchers approved by the said superintendent of public works.

Section 4. The sum of thirty-nine thousand seven hundred seven and 88/100 dollars (\$39,707.88), or so much thereof as may be necessary, is hereby appropriated from the general revenues of the Territory for the purposes herein designated.

Section 5. This Act shall take effect upon its approval.

(Approved October 7, 1941.) **H. B. 5, Act 37.**

[E-72] An Act Appropriating the Sum of One Hundred and Sixty-three Thousand Dollars (\$163,000.00) Out of the General Fund of the Territory of Hawaii for Certain Improvements to Territorial Airports.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The sum of one hundred and sixty-three thousand dollars (\$163,000.00) is hereby appropriated out of the general revenues of the Territory, not otherwise appropriated, for the acquisition of lands or interests in lands, for the installation of utilities, construction operations and equipment, for any expenditure necessary or incidental to any of the foregoing, and for any other expenditures necessary for the improvements of Territorial airports.

This appropriation shall be in addition to any other appropriation made pursuant to any Act of the Legislature for the same or for similar purposes. The above mentioned sum shall be allotted as follows:

Land (Including Damages)

Rodgers Airport.....	\$ 2,000.00	
Maui “	15,500.00	
Kailua “	7,500.00	
Lahaina “	5,000.00	
Hilo “	7,500.00	
Appraisals & Engineering.....	2,500.00	\$ 40,000.00

Grading & Drainage Improvements

Rodgers Airport	\$34,000.00	\$ 34,000.00
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Structures & Equipment**Rodgers Airport:**

Control Tower	\$ 6,000.00	
Comfort Station	1,500.00	
Offices & Restaurant.....	8,500.00	\$16,000.00

Hilo Airport:

Control Tower	\$ 6,000.00	
Hangar	12,000.00	\$18,000.00

Maui Airport:

Control Tower	\$ 6,000.00	
Hangar	12,000.00	\$18,000.00

Molokai Airport:

Control Tower	\$ 6,000.00	\$ 6,000.00
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Port Allen Airport:

Control Tower	\$ 6,000.00	\$ 6,000.00	\$ 64,000.00
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Contingencies	\$ 25,000.00
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(May be expended for any of the above purposes, for any of the above airports or other airports or emergency landing fields within the Territory or for any deficiencies in the above allotments).

TOTAL	\$163,000.00
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In case the amount allotted for any item shall not be wholly required to complete the work on such item the unrequired balance may be transferred to any other item, including the contingencies item.

Section 2. Said amount shall be disbursed on warrants drawn by the auditor upon vouchers approved by the superintendent of public works, and may be expended in conjunction with federal funds available under any Act of Congress for such purposes.

Section 3. This Act shall take effect upon its approval.

(Approved October 6, 1941.) **H. B. 27, Act 35.**

[E-73] An Act for the Reimbursement of the Honolulu Chamber of Commerce and Elizabeth M. Collins for Advances Made by Them to Cover Expenses of the Senate Holdover Committee on Education and the Committee on Community Survey of Education.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. There is hereby appropriated the sum of three hundred ninety-one and 27/100 dollars (\$391.27) from any moneys available in the general fund of the Territory of Hawaii not otherwise appropriated to reimburse the Honolulu Chamber of Commerce and Elizabeth M. Collins for advances made by them towards defraying the expenses incurred by the Senate Holdover Committee on Education and the Committee on Community Survey of Education in connection with the survey made by said committees concerning the educational system of the Territory of Hawaii.

Section 2. The auditor of the Territory of Hawaii is hereby authorized, empowered and directed to issue a warrant in favor of the Honolulu Chamber of Commerce for the sum of three hundred seventy-five dollars (\$375.00) and a warrant in favor of Elizabeth M. Collins for the sum of sixteen and 27/100 dollars (\$16.27), said amounts to be paid out of the appropriation hereinabove made.

Section 3. This Act shall take effect upon its approval.

(Became effective October 24, 1941, without the Governor's signature.) **S. B. 66, Act 80.**

[E-74] An Act Making Appropriations for Certain Purposes.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. There shall be and is hereby appropriated the sum of thirty-five thousand four hundred sixty-six and 66/100 dollars (\$35,466.66) to be paid out of any moneys in the treasury of the Territory of Hawaii, not otherwise appropriated, for the following purposes:

1. For the purchase of copies of "1941 STAR AN-
NOTATION SERVICE" and supplement\$ 1,000.00
2. For the purposes of Act 21 of the Special Session
of 1941, relating to the pay of the national guard 4,400.00

- | | |
|---|-----------|
| 3. Repairs and improvements to national guard camp site on Maui | 1,500.00 |
| 4. For X-raying of selectees for tuberculosis and other X-ray expenses (which appropriation shall be in addition to any other appropriations made for the 1941-43 biennium for Other Current Expenses of the Tuberculosis Bureau of the Department of Health) | 7,500.00 |
| 5. For the employment of five additional senior sanitary inspectors in the Bureau of Sanitation, for the period November 1, 1941 to June 30, 1943 | 16,066.66 |
| 6. Veterans, Hawaii Guard 1893-1898 | 5,000.00 |

Section 2. The money thus appropriated shall be expended upon warrants drawn by the auditor of the Territory, as to item 1 of section 1, upon vouchers approved by the secretary of Hawaii, and, as to item 2 of section 1, upon vouchers approved by the head of the department concerned, and, as to item 3 of section 1, upon vouchers approved by the adjutant general, and as to items 4 and 5 of section 1, upon vouchers approved by the commissioner of public health.

Section 3. This Act shall take effect upon its approval.

(Approved November 5, 1941.) **S. B. 46, Act 92.**

[E-75] An Act to Appropriate Money for the Expenses of the Senate of the Territory of Hawaii for the Periods Herein Specified.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. There is hereby appropriated from the public treasury the sum of thirty thousand dollars (\$30,000.00), or so much thereof as may be necessary, for the purpose of defraying the expenses of the Senate of the Twenty-First Legislature, Special Session of 1941, for the period commencing September 15, 1941, and ending November 3, 1942.

Section 2. Should there remain any balance of the aforesaid sum of thirty thousand dollars (\$30,000.00) unexpended and not contracted for expenditure at the expiration of the aforesaid period, either by said Senate or any Holdover Committee or Committees thereof duly authorized by said Senate to act after the close of the Special Session of 1941, such balance is hereby

appropriated for the purpose of defraying the expenses of any such Holdover Committee or Committees incurred prior to the convening of any session of the Twenty-Second Legislature of the Territory of Hawaii.

Section 3. Each section of this Act is hereby declared to be severable from the remainder of said Act.

Section 4. This Act shall take effect upon its approval.

(Approved September 19, 1941.) **S. B. 3, Act 1.**

[E-76] An Act to appropriate Money for Expenses of the House of Representatives of the Territory of Hawaii for the Periods Herein Specified.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. There is hereby appropriated from the public treasury the sum of forty-five thousand dollars (\$45,000.00) or so much thereof as may be necessary for the purpose of defraying the expenses of the House of Representatives of the Twenty-First Legislature of the Territory of Hawaii, Special Session of 1941, for the period commencing September 15, 1941, and ending November 3, 1942.

Section 2. Should there remain any balance of the aforesaid sum of forty-five thousand dollars (\$45,000.00) unexpended and not contracted for expenditure at the expiration of the aforesaid period either by said House of Representatives or any holdover committee or committees thereof duly authorized by said House of Representatives to act after the close of the Special Session of 1941, such balance is hereby appropriated for the purpose of defraying the expenses of any such holdover committee or committees incurred prior to the convening of any session of the Twenty-Second Legislature of the Territory of Hawaii.

Section 3. Each section of this Act is hereby declared to be severable from the remainder of said Act.

Section 4. This Act shall take effect upon its approval.

(Approved September 27, 1941.) **H. B. 11, Act 13.**

[E-77] An Act to appropriate Money for Additional Expenses of the House of Representatives of the Twenty-First Legislature, Regular Session of 1941, Including Printing and Other Expenses for the Journal of Said Session, and for Additional Expenses for the Senate of the Twenty-First Legislature, Special Session of 1941.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. There is hereby appropriated from the public treasury the sum of five thousand dollars (\$5,000.00) or so much thereof as may be necessary for the purpose of supplementing the appropriation heretofore made by Act 1 of the Session Laws of Hawaii 1941, for defraying the cost of printing, sewing and binding the Journal of the House of Representatives of the Twenty-First Legislature of the Territory of Hawaii, Regular Session of 1941.

Section 2. There is hereby appropriated from the public treasury the sum of one thousand five hundred dollars (\$1,500.00) or so much thereof as may be necessary for the purpose of defraying additional expenses of the Senate of the Twenty-First Legislature of the Territory of Hawaii, Special Session of 1941, for the period commencing September 15, 1941 and ending November 3, 1942.

Section 3. This Act shall take effect on its approval.

(Approved October 30, 1941.) **H. B. 36, Act 87.**

[E-78] An Act to appropriate Money for the Purpose of Defraying the Expenses of Publishing the Laws of the Special Session of the Legislature of the Territory of Hawaii, 1941.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. There shall be and hereby is appropriated the sum of eight thousand dollars (\$8,000.00), to be paid out of any moneys in the treasury of the Territory of Hawaii, not otherwise appropriated, for the purpose of defraying the expenses of publishing the laws of the Special Session of the Legislature of the Territory of Hawaii, 1941.

Section 2. This Act shall take effect from and after the date of its approval.

(Approved October 6, 1941.) **S. B. 47, Act 33.**

MISCELLANEOUS, TERRITORIAL.

[E-79] An Act Relating to Exemptions from the Poll Tax.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The additional exemptions from the poll tax enacted by Act 10 of the Session Laws of Hawaii 1941, in an amendment to **section 2125** of the Revised Laws of Hawaii 1935, are hereby declared effective as of January 1, 1941.

Section 2. Any poll taxes collected from persons covered by said exemptions during the year 1941, shall be refunded to such persons on warrants issued by the auditor of the territory upon vouchers approved by the tax commissioner, upon the general fund of the territory.

Section 3. Such amount of money as is necessary to cover the warrants hereinabove provided for is hereby appropriated from the general fund of the territory.

Section 4. This Act shall take effect upon its approval.

(Became effective October 20, 1941, having been approved by the legislature over the veto of the Governor.) **H. B. 29, Act 76.**

[E-80] An Act Requiring That Certain Public Officers and Employees be Paid During Certain Periods of Military Service During 1939 and 1940.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. All officers and employees of the Territory and the several counties who were ordered to active duty or camps of instruction as members of the Hawaii National Guard, naval, military, organized reserves, including the officers' reserve corps and the enlisted reserve corps, under the call of the President of the United States, or the Governor of the Territory, during the calendar years 1939 and 1940, shall be entitled to and shall receive pay as provided by law for a period not exceeding twenty-two days in each of said years, the provisions of section 97 of the Revised Laws of Hawaii 1935, as amended by Act 207, Series A-6, of the Session Laws of Hawaii 1939, notwithstanding.

Section 2. This Act shall take effect upon its approval.

(Approved October 3, 1941.) **H. B. 9, Act 21.**

[E-81] An Act to Provide for the Deposit in a Special Fund of All Moneys Received in Connection With or on Account of the Purchase of Dredged Material Excavated in the Course of the Development of the Keehi Lagoon Seaplane Harbor, and to Provide for the Expenditure of Moneys in Said Special Fund.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Any and all moneys received by the Territory of Hawaii in connection with or on account of the purchase, by the owner of any property or interest in property in the vicinity of Keehi Lagoon, Oahu, of dredged material excavated from said Keehi Lagoon in the course of the development or improvement of said Keehi Lagoon for use as a seaplane harbor shall be deposited in a special fund in the treasury of the Territory of Hawaii and shall be expended for the acquisition of any or all property or interests in property necessary to be acquired for the improvement of Keehi Lagoon, Oahu, for use as a seaplane harbor, including means of ingress thereto and egress therefrom and spoil-disposal areas for said project, for any expenditure necessary to procure the release or satisfaction of claims for damages arising out of said project, or necessary in connection with said project, and for incidental improvements that may arise in connection with said project.

Section 2. The moneys in said special fund shall be deemed to be and are appropriated for the aforesaid purposes and shall be expended upon vouchers approved by the superintendent of public works. If any moneys remain unexpended in said special fund after the purposes of this appropriation have been accomplished, the auditor, upon the receipt of a certificate from the superintendent of public works, stating that all outstanding accounts against such appropriation have been fully paid and satisfied, may, with the written approval of the governor, close out such account and transfer the unexpended balance to the credit of the general fund of the Territory.

Section 3. This Act shall take effect upon its approval.

(Approved October 9, 1941.) S. B. 36, Act 50.

321 AUG 22 1907
[E-82] An Act Authorizing and Directing the Governor of the Territory of Hawaii to Contract on Behalf of the Territory for the Construction of an Irrigation and Water Utilization System on the Island of Molokai and Specifying Certain Terms of the Contract; Granting the Right of Eminent Domain; Making an Appropriation for Expenditure by the Governor in Accordance with the Provisions of This Act, Constituting a Separate Fund of the Amount Appropriated, and Making Provisions for Temporary Use of the Appropriation and the Lapsing Thereof; Creating the Molokai Water Board and Providing for Its Powers and Duties; Making Provision for the Operation and Maintenance of the Irrigation and Water Utilization System; and Providing for the Repayment of the Cost of Construction Thereof.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The governor of the Territory of Hawaii is hereby authorized and directed to contract on behalf of the Territory of Hawaii with the United States, or any authorized officer or agency thereof, for the construction by the United States, or its agent, of an irrigation and water utilization system on the island of Molokai, Territory of Hawaii, at a cost not to exceed five million dollars (\$5,000,000.00); provided, however, that said contract shall expressly stipulate and covenant that the lessees of the Hawaiian Homes Commission shall have the right to have their water needs, domestic and agricultural, satisfied before any water shall become available for sale to any other person or persons, and that, in the event that there is no surplus over the needs of said lessees, then said lessees shall be entitled to have the whole thereof.

Section 2. Such contract shall provide for the repayment to the United States, without interest, of the portion of the reimbursable cost of construction of such project, not exceeding two million five hundred thousand dollars (\$2,500,000.00), which the secretary of the Interior of the United States shall determine to be in excess of the ability of users of such irrigation and water utilization system to pay therefor; provided, that such repayment shall be made in forty (40) equal annual installments, commencing with the year following the last year of such period as said secretary of the Interior shall fix as the development period for said project. Such contract may contain such other provisions, not inconsistent with this Act, as the governor may deem appropriate.

Section 3. In connection with the construction of said irrigation and water utilization system, the governor, acting on behalf of the Territory through the superintendent of public works, shall have the right to acquire for said system, by eminent domain, water and water sources, water sheds, reservoir sites, rights of way over lands and property for ditches, tunnels, flumes, or pipe lines necessary and proper for the construction and maintenance of such system and for such other purposes as may properly fall within the scope of the creation and maintenance of an irrigation and domestic water system. Such right of eminent domain may be exercised in the manner and under the procedure provided by law for irrigation corporations, with the additional right to enter into possession, provided by section 68 of the Revised Laws of Hawaii 1935, as amended, or in the manner and under the procedure provided in sections 55 to 68, inclusive, of the Revised Laws of Hawaii 1935, as amended. He shall also have such powers as may be necessary or proper to the full exercise of the powers hereinabove enumerated.

Section 4. There is hereby appropriated out of the general revenues of the Territory the sum of two million five hundred thousand dollars (\$2,500,000.00) to be available for expenditure by the governor in accordance with the provisions of this Act.

The amount herein appropriated shall constitute a separate fund to be known as the "Molokai Irrigation System Installment Repayment Fund". The treasurer of the Territory with the approval of the governor, is authorized to make temporary use of any portion or all of the money herein appropriated, not immediately needed for repayment installments, for the purpose of paying warrants drawn on the treasury for current indebtedness of the Territory or for deposit in the territorial sinking fund for the repayment of bonds or for investment in territorial bonds, provided, that sufficient of the sums so taken, deposited, or invested shall be redeposited to the credit of the Molokai Irrigation System Installment Repayment Fund prior to the time when any installment becomes payable to meet such installment payment.

Section 5. Such portion, if any, of the sum hereinabove appropriated as may be in excess of the total obligation of the Territory of Hawaii under any contract entered into pursuant to the provisions of this Act, shall be lapsed into the general fund of the Territory of Hawaii, and repayments from such project to the Territory shall be deposited in the general fund.

Section 6. There is hereby created the Molokai water board of five members, who shall be appointed by the governor in the manner prescribed by section 80 of the Organic Act, one of whom shall be designated as chairman of the board, and two of whom shall be engineers and all of whom shall serve without pay, but shall be entitled to such reasonable traveling expenses as may be incurred in the discharge of their duties. The members shall hold office for three years or until their successors are appointed and qualified; provided, however, that the first members appointed shall be appointed, one for a term expiring June 30, 1943, two for a term expiring June 30, 1944, and two for a term expiring June 30, 1945.

The board shall have the power to operate, under such supervision and upon such terms as the secretary of the Interior of the United States may establish, any irrigation and water utilization system constructed upon the island of Molokai under contract between the United States, or any agency thereof, and the governor, acting in behalf of the Territory of Hawaii. The board shall have power to charge and collect water rates for service from such water system to defray the cost of operation, maintenance, and improvement of such system and to reimburse the cost of the construction and improvement of such system to the United States, or any agency thereof, and to the Territory of Hawaii. It shall also have the right to acquire by eminent domain, water and water sources, water sheds, reservoir sites, rights of way over lands and property for ditches, tunnels, flumes, and pipe lines necessary or proper for the construction and maintenance of a system for conveying, distributing, and transmitting water for irrigation and domestic use and for such other purposes as may properly fall within the scope of its activities in creating and maintaining an irrigation and domestic water system. Such right of eminent domain shall be exercised in the manner and under the procedure provided by law for irrigation corporations, with the additional right to enter into possession, provided by section 68 of the Revised Laws of Hawaii 1935, as amended. It shall also have such powers as may be necessary or proper to the full exercise of the powers hereinabove enumerated.

Such board shall have the power, subject to section 7 of this Act, to appoint a manager to administer the affairs of the system, subject to the control of the board, and shall also have the power to appoint and discharge, subject to the civil service law of the Territory, such other employees, subordinates, and assistants as may be necessary or proper for the proper conduct of the business of the board. The board may require a bond in such amount

as it shall deem proper from any employee, which bond shall be duly conditioned for the faithful performance of the duties of the employee, and the board may provide that the premium on the bond shall be paid from the revenues of the system.

Section 7. Said irrigation and water utilization system shall be operated and maintained by the Molokai water board on such terms and under such supervision as the secretary of the Interior shall require until the cost of construction of the project has been fully repaid.

Section 8. The Molokai water board shall apply all revenues received by it from the operation of said irrigation and water utilization system, over and above the cost of maintenance and operation thereof, to the repayment of moneys advanced by either the United States or the Territory for the cost of construction of said system; provided, however, that annual installments to the United States shall be repaid in full before any payment is made to the Territory, and provided further that, after payment to the United States and before payment to the Territory, surplus revenue, subject to the provisions of section 7 hereof, may be expended in improvements to the system.

Section 9. This Act shall become effective upon the enactment into law during the term of the 77th Congress of the United States of America of legislation authorizing the secretary of the Interior, or any other officer or agency of the United States, to construct an irrigation and water utilization system on the island of Molokai, Territory of Hawaii.

(Approved October 18, 1941.) **S. B. 57, Act 69.**

[E-83] An Act to Amend Act 69 of the Special Session Laws of Hawaii 1941, Relating to the Construction of an Irrigation and Water Utilization System on the Island of Molokai, by Amending Sections 1, 2, 3 and 6 Thereof.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Act 69 of the Special Session Laws of Hawaii 1941 is hereby amended by amending section 1 thereof to read as follows:

“Section 1. The governor of the Territory of Hawaii is hereby authorized and directed to contract on behalf of the Territory

of Hawaii with the United States, or any authorized officer or agency thereof, for the construction by the United States, or its agent, of an irrigation and water utilization system on the island of Molokai, Territory of Hawaii, provided that the portion of the cost of the system to be allocated to irrigation and to be repaid to the United States shall not exceed five million dollars (\$5,000,000.00); and provided further, that said contract shall expressly stipulate and covenant that the lessees of the Hawaiian Homes Commission shall have the right to have their water needs, domestic and agricultural, satisfied before any water shall become available for sale to any other person or persons, and that, in the event that there is no surplus over the needs of said lessees, then said lessees shall be entitled to have the whole thereof.

“The term ‘irrigation’ as used in this Act in the phrase ‘allocated to irrigation’ shall mean the actual construction of such system, together with all parts thereto and appurtenances thereof, and all surveys, plans and specifications in connection therewith, and including, but not limited to, supply and distribution systems, pumps, reservoirs, dams, water sheds, tunnels, pipe lines and ditches.”

Section 2. Act 69 of the Special Session Laws of Hawaii 1941 is hereby amended by amending section 2 thereof to read as follows:

“Section 2. Such contract shall provide for the repayment to the United States, without interest, of the portion of the reimbursable cost of construction of such project allocated to irrigation, not exceeding two million five hundred thousand dollars (\$2,500,000.00), which the secretary of the Interior of the United States shall determine to be in excess of the ability of users of such irrigation and water utilization system to pay therefor; provided, that such repayment shall be made in forty (40) equal annual installments, commencing with the year following the last year of such period as said secretary of the Interior shall fix as the development period for said project. Such contract may contain such other provisions, not inconsistent with this Act, as the governor may deem appropriate.”

Section 3. Act 69 of the Special Session Laws of Hawaii 1941 is hereby amended by amending the first sentence of section 3 thereof to read as follows:

“In connection with the construction of said irrigation and water utilization system, the governor, acting on behalf of the Territory through the superintendent of public works, shall

have the right to acquire for said system, by eminent domain, water and water sources, water sheds, reservoir sites, rights of way over lands and property for ditches, tunnels, flumes, or pipe lines necessary and proper for the construction and maintenance of such system and for such other purposes as may properly fall within the scope of the creation and maintenance of an irrigation and domestic water system, and to convert such properties so acquired to the United States for the purposes of such system."

Section 4. Act 69 of the Special Session Laws of Hawaii 1941 is hereby amended by amending the fifth sentence of section 6 thereof to read as follows:

"It shall also have the right to acquire by eminent domain, water and water sources, water sheds, reservoir sites, rights of way over lands and property for ditches, tunnels, flumes, and pipe lines necessary or proper for the construction and maintenance of a system for conveying, distributing, and transmitting water for irrigation and domestic use and for such other purposes as may properly fall within the scope of its activities in creating and maintaining an irrigation and domestic water system, and to convert such properties so acquired to the United States for the purposes of such system."

Section 5. This Act shall take effect upon its approval.

(Approved November 10, 1941.) **S. B. 70, Act 96.**

[E-84] An Act Repealing Act 201 of the Session Laws of Hawaii 1941, Authorizing the Hawaiian Homes Commission to Contract and Enter Into a Guaranty with the Molokai Water Commission.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Act 201 of the Session Laws of Hawaii 1941, is hereby repealed.

Section 2. This Act shall take effect upon its approval.

(Approved October 21, 1941.) **S. B. 55, Act 74.**

PART 2. SPECIAL AS TO LOCALE.**COUNTIES AND CITY AND COUNTY.**

[E-85] An Act Appropriating Funds for the Various Counties and City and County and Providing for Certain Expenditures Therefrom.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. There are hereby appropriated out of the general revenues of the Territory not otherwise appropriated the following respective sums for the following respective counties, to wit:

City and County of Honolulu	\$609,000.00
County of Maui	181,000.00
County of Hawaii	181,000.00
County of Kauai	136,000.00

Section 2. The amount hereby appropriated for each of said counties shall be paid to the treasurer of said county prior to December 31, 1941. All such moneys shall be paid into the general fund of the county concerned except as herein otherwise provided.

Section 3. Of the moneys appropriated and paid to the City and County of Honolulu the Board of Supervisors of said city and county shall appropriate and expend the following amounts for the following specific purposes:

1. Police Department:

- (a) Additional Personnel and increase for motorcycle officers.....\$48,065.00
- (b) Other current expenses and automobile allowances 10,947.62
- (c) Equipment, including motor vehicles 75,339.65 \$134,352.27
2. Additional Honolulu Magistrates including clerks, prosecutors, and bailiffs\$ 5,750.00
3. Salary adjustments and/or increments due to classification 26,000.00
4. Recreation: Personnel, improvements and equipment 9,500.00
5. Garbage trucks 80,000.00
6. Moiliili Park (land) 40,000.00
7. Kahaluu Park (land) 20,000.00
8. Kaneohe Fire Station and equipment 55,000.00
9. Balance due on Police Station land..... 27,000.00

10. Alterations to premises of district court of Honolulu to provide new court room and air-conditioning of all court rooms of said court 12,500.00

Any balance of moneys appropriated and paid to the City and County of Honolulu under the provisions of section 1 hereof not expended during the year 1941 shall be carried forward and expended during any subsequent year, any other provisions of the law to the contrary notwithstanding, and in case the amount specified in any of the above items shall not be wholly required to complete such item the unrequired balance shall, after completion of said item, be transferred to the general fund of the city and county.

Section 4. Of the moneys appropriated and paid to the County of Maui the Board of Supervisors of said county shall appropriate and expend the following amounts for the following specific purposes:

1. Water development and pipe-line improvements and installations—East Molokai\$10,000.00
2. Pipe-line installations and improvements—Kihei.. 5,000.00
3. Pipe-line enlargement and improvement from Main and Market Streets to Waiale Road—Wailuku 6,000.00
4. Pipe-line enlargement and improvement on Market Street from Vineyard Street to Piikaha 6,500.00
5. Hana Belt Road paving. (This amount shall be expended in connection with Federal Aid funds under the Federal Highway Act or any other Acts of Congress making available Federal funds for such purposes if such can be secured) 25,000.00
6. Kihei Makena Road (including Waiohuli-Keokea Beach Road) 35,000.00
7. Belt Road Keanae toward Kailua 25,000.00
8. Kaunakakai School improvements:
 - (a) Cafeteria building\$6,000.00
 - (b) Library and assembly room 3,000.00
 - (c) Office (storage, ladies' restroom, library work room) 1,500.00

Any balance of moneys appropriated for the foregoing purposes not expended during the year 1941 shall be carried forward and expended during any subsequent year for the purposes specified and in case the amount specified in any item shall not be wholly required to complete the work on such item

the unrequired balance shall, after completion of said item, be transferred to the general fund of the county.

Section 5. Of the moneys appropriated and paid to the County of Kauai the Board of Supervisors of said county shall appropriate and expend the following amounts for the following specific purposes:

1. To pay salary increases of employees other than police officers	\$13,000.00
2. To pay salary increases of police officers as provided in Act 7 of the Special Session Laws, 1941..	5,000.00
3. To purchase of water meters for the water system	10,000.00
4. To pay the annual sinking fund installments on term bonds and principal of certain serial bonds as provided in item 3 of section 2903, Revised Laws of Hawaii 1935	20,000.00
5. To provide additional fire-fighting equipment and fire hydrants	50,000.00
6. To extension of water system to the Wailua Area, including army post or camp at Wailua	15,000.00
7. To connect Waimea water system with Kekaha water system	7,000.00
8. To provide for increases in allowances to pensioners, provided legislation be enacted specifying such increases	3,000.00
9. To clearing Nawiliwili Stream	4,000.00
10. To clearing Waipouli Stream	4,000.00
11. To clearing Anahola Stream	3,000.00
12. To clearing Waioli Stream	2,000.00

Any moneys appropriated to the County of Kauai under the provisions of this Act shall be expended in the manner provided above, provided, however, that in case the amount or any portion thereof specified in any of the foregoing items shall not be expended for such item, then the unexpended amount or balance thereof may be expended on any of the other items aforesaid and, in case such amounts or balances thereof shall not be wholly so expended, then such amounts or balances thereof shall be deposited or lapsed into a special fund and may be expended for any purpose.

Section 6. Of the moneys appropriated and paid to the County of Hawaii the Board of Supervisors of said county shall appropriate and expend the following amounts for the following specific purposes:

1. To general fund of County of Hawaii for additional salary increases	\$22,500.00
2. For the surfacing of the Papaikou-Pepeekeo Road	28,600.00
3. To Hilo Memorial Hospital for construction, equipment and maintenance	25,000.00
4. To construction of the Kaumana-Ponahawai Road (South Hilo) to Piihonua Road	15,000.00
5. Construction of road from Lot 2, Ahualoa Homesteads, 1st Series toward Lot 15, Ahualoa Homesteads 3rd Series	10,000.00
6. Construction of road from land described in Special Sale Agreement 1836 and Lot 87-H, towards Grant 6832	5,000.00
7. Extension of Kapehu Road from Lot 29 towards Lot 28 and Lot 43	5,000.00
8. Extension of Banyan Drive from Lot 20 running toward Pier 3, Ocean View Lease Lots, S. Hilo....	7,500.00
9. Construction of road from Lot 8 Gr. 5967 Olaa New Tract Lots towards Lot 28 Gr. 10866, Puna, Hawaii	7,000.00
10. Construction of curbs and sidewalks along the makai side of Kalaniana'ole Street, beginning at the southeast corner of Grant 9072 and running to the lands of Honohono-nui	6,500.00
11. Extension of Haunani Road, Olaa Summer Lots, through Grants 10069 and 5418, a distance of about 3,000 feet	5,400.00
12. Construction of road running approximately north toward the ocean, at Kaauhuhu Homesteads, beginning at Hawi Village (North Kohala)	5,000.00
13. Construction of Kapaa-Halaula Road (North Kohala)	5,000.00
14. Development and extension of water system in:	
(a) Kaauhuhu (North Kohala)	3,000.00
(b) Kokoiki (North Kohala)	3,000.00
(c) Waimea (South Kohala)	7,500.00
15. Development of and extension of Kau water works	10,000.00
16. Reconstruction of Main Belt Road Kainaliu-Holualoa	7,500.00
17. Construction of auditorium at Holualoa School..	2,500.00

Any balance of moneys appropriated for the foregoing purposes not expended during the year 1941 shall be carried forward and expended during any subsequent year for the purposes specified and in case the amount specified in any item shall not be wholly required to complete the work on such item the unrequired balance shall, after completion of said item, be transferred to the general fund of the county.

Section 7. The Board of Supervisors of the County of Hawaii may, in their discretion, construct or enter into contracts for the construction of any of the roads herein referred to, to be constructed on the Island of Hawaii, without the necessity of complying with section 80 of the Revised Laws of Hawaii 1935, as amended, or of any requirement of publication of a call for tenders, and, in such case, said section 80 and any provisions of law requiring publication of a call for tenders, shall not apply to the expenditure of public moneys for said roads.

Section 8. This Act shall take effect upon approval.

(Became effective October 11, 1941, without the Governor's signature.) **H. B. 3, Act 54.**

CITY AND COUNTY OF HONOLULU.

[E-86] An Act to Fix and Establish the Remaining Obligations and Duties of the City and County of Honolulu and the Board of Water Supply of the City and County of Honolulu Imposed by Act 138, Session Laws of Hawaii 1913, as Amended, and by Sections 3272 and 3273, Revised Laws of Hawaii 1935, Relating to the Honolulu Water and Sewer Works and the Board of Water Supply.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The City and County of Honolulu and the Board of Water Supply of the City and County of Honolulu shall set aside and pay to the Territory of Hawaii the following amounts during the years 1942 to 1946, inclusive, for the payment of the remaining unpaid bonded indebtedness incurred by the Territory of Hawaii for extensions and improvements of the Honolulu Sewer Works and the Honolulu Water Works:

SPECIAL, HONOLULU LAWS.

SERIES E-86.—ACT 64]

SERIES E-87.—ACT 34]

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	<u>1942</u>	<u>1943</u>	<u>1944</u>	<u>1945</u>	<u>1946</u>
City and County of Honolulu					
Principal ..	\$2,244.15	\$1,566.07	\$1,566.07	\$1,566.07	\$1,566.07
Interest	3,600.81	3,303.28	3,024.91	2,766.31	3,046.24
Board of Water Supply					
Principal ..	10,880.80	5,086.55	5,086.55	5,086.55	5,086.55
Interest	11,529.20	10,618.20	9,769.43	8,984.91	9,894.12

Such payments shall be in lieu of the payments imposed by section 3 of Act 138, Session Laws of Hawaii 1913, as amended by Act 182, Session Laws of Hawaii 1915, and Acts 69 and 231, Session Laws of Hawaii 1923, and shall be made on July 1 of each of the years above set forth. Upon the completion of such payments all obligations of the said City and County of Honolulu and the said board of water supply under the terms of said section 3 of Act 138, Session Laws of Hawaii 1913, as amended, and of sections 3272 and 3273, Revised Laws of Hawaii 1935, with respect to payments to the Territory of Hawaii, on account of the aforesaid bonded indebtedness of the territory shall be deemed to be terminated and discharged.

Section 2. This Act shall take effect upon its approval.

(Approved October 17, 1941.) **H. B. 34, Act 64.**

[E-87] An Act Directing the Treasurer of the City and County of Honolulu Not to Sell Certain Lots in Booth Tract Improvement District No. 25, and Authorizing the Use of Said Lots for Park Purposes.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The treasurer of the city and county of Honolulu is directed not to sell lots 183, 184, 186 to 192, inclusive, 202, 203, 204 and 206 to 218, inclusive, in the Booth Tract Improvement District No. 25, created by ordinances Nos. 383 and 556, now owned by the city and county of Honolulu under foreclosure sales of said lots held pursuant to the provisions of section 3199, Revised Laws of Hawaii 1935, and the board of supervisors of the city and county is authorized to use said real property for park purposes, the written approval of the park board having been given pursuant to the provisions of section 3228, Revised

Laws of Hawaii 1935, as amended by Act 242, Session Laws of Hawaii 1939.

Section 2. This Act shall take effect upon its approval.

(Approved October 6, 1941.) **S. B. 39, Act 34.**

[E-88] An Act Authorizing the Expenditure of Certain Moneys for Roads and Street Lighting in Moana Park and Providing That Such Roads Shall Thereupon Become Public Streets or Highways and be Maintained as Such.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The board of supervisors of the city and county of Honolulu may appropriate and expend, during the calendar years 1941 and 1942, sums, the aggregate of which shall not exceed sixty thousand dollars (\$60,000.00) from the road fund created by section 2158 of the Revised Laws of Hawaii 1935, for the construction of roads, and the erection and installation of lights along such roads, within Moana Park, in accordance with plans approved by the park board of the city and county of Honolulu, and such roads shall thereupon become public streets or highways to be maintained in the same manner as other public streets and highways of the city and county of Honolulu.

Section 2. This Act shall take effect upon its approval.

(Approved October 7, 1941.) **S. B. 28, Act 38.**

[E-89] An Act Authorizing and Directing the Board of Supervisors of the City and County of Honolulu to Make Available to the Territorial Highway Department Moneys From the Fuel Tax Funds of 1942 and 1943, for the Construction and Improvement of Certain Portions of the Honolulu-Pearl Harbor Road.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The board of supervisors of the city and county of Honolulu is hereby authorized and directed to make available for expenditure by the territorial highway department the sum of five hundred thousand dollars (\$500,000.00) from the fuel tax funds of 1942 and the sum of two hundred thousand dollars

(\$200,000.00) from the fuel tax funds of 1943, or so much thereof as, in conjunction with federal funds available, may be necessary for expenditure for the construction and improvement of the Honolulu-Pearl Harbor Road running via Iwilei and Kapalama, for that section between the corner of Fort and Queen Streets, and the Kamehameha Highway between Oahu Prison and Middle Street.

Section 2. This Act shall take effect upon its approval.

(Approved October 17, 1941.) **S. B. 54, Act 62.**

[E-90] An Act Directing the Board of Supervisors of the City and County of Honolulu to Appropriate Funds for Unpaid Salaries of Certain Former Police Officers.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The Board of Supervisors of the City and County of Honolulu is hereby authorized and directed to appropriate the sum of two thousand eight hundred dollars (\$2,800.00) and to pay therefrom to the following named persons the amounts set opposite their respective names, being salaries due them for services performed by each of them as duly appointed police officers of said city and county during the periods specified:

Yoshio Hasegawa, January 1 to February 28, 1930.....	\$ 300.00
Cecil A. Rickard, January 1 to August 21, 1930.....	1,150.00
Frederick Gehrard Luning, January 1 to April 30, 1930	
and June 1 to July 31, 1930	900.00
James Wong, January 1 to March 31, 1930	450.00

Section 2. This Act shall take effect upon its approval.

(Approved October 9, 1941.) **H. B. 44, Act 47.**

[E-91] An Act to Authorize Payment by the Park Board, City and County of Honolulu, to Honolulu Iron Works Company of \$2,897.39 for Sprinkler System Furnished for Ala Wai Park and Authorizing the Controller and Auditor of City and County of Honolulu Respectively to Approve the Purchase of Said System and to Issue Voucher for Payment Thereof.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The Park Board, City and County of Honolulu, is hereby authorized and directed to pay to Honolulu Iron Works Company, a Hawaiian corporation, the sum of \$2,897.39, being the contract price agreed on for materials and supplies for sprinkler system furnished and accepted by the Park Board for Ala Wai Park in Honolulu under written contract, let by the Park Board after advertisement for bids as required by law, dated December 22, 1939, and signed by the Chairman of the Park Board, out of the available unexpended appropriation therefor held by the Park Board; and the Controller of the City and County of Honolulu is hereby authorized and directed to approve said purchase of said materials and supplies from said Honolulu Iron Works Company by the Park Board, and the Auditor of the City and County of Honolulu is hereby authorized and directed to issue a voucher for payment of said sum from said fund to said Honolulu Iron Works Company.

Section 2. This Act shall take effect upon its approval.

(Approved October 9, 1941.) **H. B. 31, Act 43.**

HAWAII.

[E-92] An Act Authorizing and Directing the Board of Supervisors of the County of Hawaii to Acquire Certain Land for County Purposes.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The Board of Supervisors of the County of Hawaii is hereby authorized and directed to appropriate from its general fund the sum of six thousand dollars (\$6,000.00), and with said moneys, or so much thereof as may be necessary, to acquire, by purchase or condemnation, for use by the County of Hawaii in the procurement of soil and cinders, those certain two parcels of land, situated in said county, and described as follows:

PARCEL 1.

Being a portion of L. C. AW. 463, Certificate of Boundaries Number 23, Punahoa 1st., and a portion of L. C. AW. 387, Part 4, Section 1, American Board of Commissioners for Foreign Mission R. P. on Confirmation Number 1946, Number 1 to D. B. Lyman, Punahoa 2nd., South Hilo, more particularly described as follows:

Beginning at a point at the northeast corner of this parcel of land, the coordinates of said point of beginning referred to Government Survey Triangulation Station "Halai" being 77.79 feet north and 666.98 feet west, thence running by azimuths measured clockwise from true south:

1. 322° 49' 561.12 feet;
2. 58° 13' 522.40 feet;
3. 97° 00' 100.00 feet;
4. 121° 20' 165.00 feet;
5. 95° 10' 102.00 feet;
6. 145° 50' 32.80 feet;
7. 63° 20' 30.49 feet;
8. 196° 35' 28.38 feet;
9. 190° 40' 48.50 feet;
10. 177° 35' 74.00 feet;
11. 182° 03' 75.00 feet;
12. 190° 45' 45.00 feet;
13. 198° 10' 92.00 feet;
14. 211° 00' 68.00 feet;
15. 225° 10' 58.50 feet;
16. 241° 45' 95.00 feet;
17. 261° 50' 72.00 feet;
18. 255° 45' 57.00 feet;
19. 244° 05' 61.00 feet;
20. 227° 35' 29.38 feet;
21. 247° 40' 81.52 feet to the point of beginning and containing an area of 8.643 acres.

PARCEL 2.

Being a portion of L. C. AW. 387, Part 4, Section 1, American Board of Commissioners for Foreign Mission, R. P. on Confirmation Number 1946, Number 1 to D. B. Lyman, Punahoa 2nd., South Hilo, Hawaii, more particularly described as follows:

Beginning at a point at the northeast corner of this parcel of land and on the southeast side of Punahoe Street, the coordinates of said point of beginning referred to Government Survey Triangulation Station "Halai" being 265.06 feet north and 809.04 feet west, thence running by azimuths measured clockwise from true south:

1. 322° 49' 204.01 feet;
2. 67° 40' 49.76 feet;
3. 47° 35' 44.22 feet;
4. 77° 00' 42.16 feet;
5. 81° 30' 94.00 feet;
6. 78° 30' 37.00 feet;
7. 70° 40' 49.00 feet;
8. 64° 40' 36.00 feet;
9. 32° 10' 52.00 feet;
10. 45° 10' 63.90 feet;
11. 31° 00' 72.74 feet;
12. 18° 10' 95.55 feet;
13. 10° 45' 47.82 feet;
14. 2° 03' 77.30 feet;
15. 357° 35' 72.49 feet;
16. 10° 40' 45.18 feet;
17. 16° 35' 29.00 feet;
18. 36° 00' 21.00 feet to a point on the northeast side of Hooamana Street;
19. 136° 15' 533.24 feet along the northeast side of Hooamana Street;
20. 254° 57' 324.00 feet along the southeast side of Punahele Street;
21. 232° 49' 550.00 feet along same to the point of beginning and containing an area of 4.062 acres.

Section 2. This Act shall take effect upon its approval.

(Approved October 6, 1941.) **H. B. 16, Act 31.**

[E-93] An Act Authorizing and Directing the Board of Supervisors of the County of Hawaii to Appropriate Two Thousand Dollars (\$2,000.00) for the Construction of a Road from the Upper Government Road at Kahauloa to Napoopoo School, County of Hawaii.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The Board of Supervisors of the County of Hawaii is hereby authorized and directed to appropriate from the general fund, the sum of two thousand dollars (\$2,000.00) expendable upon vouchers approved by the county engineer, for the construction of a road directly from the upper government road at Kahauloa to Napoopoo School, County of Hawaii.

Section 2. This Act shall take effect upon its approval.

(Approved October 2, 1941.) **H. B. 26, Act 18.**

KAUAI.

[E-94] An Act to Amend Act 202, Session Laws of Hawaii 1941, Making an Appropriation for the Maintenance and Upkeep of the Kuhio Memorial Park, Koloa, Kauai, in Memory of the Late Prince Jonah Kuhio Kalaniana'ole, by Adding a New Sentence to Section 2.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 2 of Act 202, Session Laws of Hawaii 1941, is hereby amended by adding a new sentence after the word "approval" at the end of said Section 2, to wit:

"Such sums shall be paid retroactively as of July 1, 1941, at the rate of one hundred dollars (\$100.00) per month to Kaula Chapter No. 3, Order of Kamehameha, which is operating and maintaining said park."

Section 2. This Act shall take effect from and after the date of its approval.

(Approved September 25, 1941.) **S. B. 14, Act 2.**

[E-95] An Act Amending Act 267 of the Session Laws of Hawaii 1941 by Repealing Section 3 Thereof and Substituting Therefor a New Section to be Designated Section 3, Relating to Salaries and Pay of the Kauai County Police Department.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Act 267 of the Session Laws of Hawaii 1941 is hereby amended by repealing Section 3 thereof.

Section 2. Act 267 of the Session Laws of Hawaii 1941 is hereby further amended by substituting for Section 3, herein repealed, a new section to be designated "Section 3" which shall read as follows:

"Section 3. Any police officer (including captains of police), who had two or more years of service in the Kauai county police department upon July 1, 1941, shall receive the automatic increase provided in Section 2 of this Act for one of his rank and district for each year which such officer has served, but not in

excess of the maximum provided for his rank and district. The increase shall be effective as of July 1, 1941."

Section 3. This Act shall take effect upon its approval.

(Approved September 26, 1941.) S. B. 15, Act 7.

MAUI.

[E-96] An Act Authorizing the County of Maui to Issue Bonds to Finance the Cost of the Construction of a Hospital at Wailuku, Maui, T. H.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The county of Maui is hereby authorized and empowered to issue, pursuant to and in accordance with Act 272 of the Session Laws of Hawaii 1927, bonds in the sum of \$150,000.00, said bonds to be serial bonds maturing in substantially equal annual installments, the first installment to mature in 5 years from date of issue and the last installment not later than 30 years from such date of issue, the moneys realized from said bonds to be expended for the construction of a hospital to be located between the towns of Wailuku and Kahului on the South side of the Main Wailuku-Kahului highway.

The principal and interest of such bonds shall be paid from the general funds of the county of Maui.

Section 2. The moneys derived from the sale of said bonds may, at the option of the board of supervisors of the county of Maui, be expended in accordance with existing laws relating to the expenditure of moneys in connection with funds made available for the same or similar purposes by other governmental agencies and may be used to match any such other funds.

Section 3. This Act shall take effect upon its approval.

(Approved September 26, 1941.) S. B. 16, Act 8.

[E-97] An Act to Reimburse the County of Maui for the Cost of Moving the County Jail at Wailuku, to Make Room for the Military Camp Site at Paukukalo.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The sum of \$17,447.95 is hereby appropriated out of the general fund of the Territory of Hawaii, said amount to be paid to the county of Maui to reimburse said county of Maui for the cost of moving the county jail and cottages from the military camp site at Paukukalo to a new site and the construction of roads to and improvement of grounds of the new site, to make the old site of said jail available for use as part of the military camp at said Paukukalo.

Section 2. This Act shall take effect upon its approval.

(Approved October 8, 1941.) **S. B. 33, Act 42.**

[E-98] An Act Amending Act 134 (Series E-331) of the Session Laws of Hawaii 1941, Authorizing and Directing the Board of Supervisors of the County of Maui to Make Certain Appropriations.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. That Section 1 of Act 134 (Series E-331), Session Laws of Hawaii 1941 is hereby amended by deleting therefrom the first item thereof reading as follows:

“Malulani Maternity Ward, construction and equipment, \$25,-000.00.”

Section 2. This Act shall take effect upon its approval.

(Approved September 25, 1941.) **S. B. 17, Act 3.**

JOINT RESOLUTIONS.

J. R. 1

Joint Resolution Requesting the Congress of the United States to Ratify and Confirm an Act of the Special Session of 1941 of the Legislature of the Territory of Hawaii, Authorizing any Municipality or Other Political Subdivision in the Territory of Hawaii to Issue Revenue Bonds for Financing Revenue Producing Undertakings of Such Municipality or Other Political Subdivision, and Amending Act 174 of the Session Laws of the Territory of Hawaii, Regular Session of 1935, so as to Extend the Time Within Which Such Bonds May be Issued.

[Sic]

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The Congress of the United States of America is hereby respectfully requested to ratify and confirm that certain Act enacted at the Special Session of 1941 of this Legislature, being House Bill No. 1, entitled:

“An Act authorizing any municipality or other political subdivision in the Territory to issue revenue bonds for financing revenue producing undertakings of such municipality or other political subdivision, and amending Act 174 of the Session Laws of the Territory of Hawaii, Regular Session of 1935, so as to extend the time within which such bonds may be issued.” which Act authorizes any municipality or other political subdivision to issue revenue bonds for financing revenue producing undertakings of such municipality or other political subdivision, and amends Act 174 of the Session Laws of the Territory of Hawaii, Regular Session of 1935, so as to extend to June 30, 1943 the time within which revenue bonds may be issued and delivered.

Section 2. This Joint Resolution shall, upon its approval, be forwarded to the President of the United States, to the President of the Senate of the United States, to the Speaker of the House of Representatives of the United States and to the Delegate to Congress from the Territory of Hawaii.

Section 3. This Joint Resolution shall take effect upon its approval.

(Approved October 9, 1941.) **H. J. R. 1.**

J. R. 2

Joint Resolution to Further National Defense by Encouraging the Manufacture of Fuel Alcohol in the Territory of Hawaii Through Exempting from Taxation all Property Used in the Manufacture of Fuel Alcohol and Through Exempting Fuel Alcohol from the Fuel Tax.

WHEREAS, in the event of a national emergency, it would be highly desirable that there be produced in the Territory of Hawaii such quantities of fuel for internal combustion engines as it is possible to manufacture locally; and

WHEREAS, there are available in the Territory of Hawaii waste products from which fuel alcohol can be manufactured; and

WHEREAS, the construction, the equipment and the operation of fuel alcohol plants would require an investment of a considerable amount of capital with no likelihood of any adequate returns thereon; and

WHEREAS, it would take considerable time before such plants could be placed in operation, and consequently their operation should be provided for in advance of a possible emergency; and

WHEREAS, in order to encourage the construction, the equipment and the operation of fuel alcohol plants, it is highly desirable that the Territory do its part through the suspension for a short period of time of the payment of taxes upon the property used in such plants and upon the fuel alcohol manufactured therein; now, therefore,

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. All property, both real and personal, actually and solely used in connection with the manufacture of alcohol for use as fuel for internal combustion engines shall be exempt from all property taxes for a period of five years from and including January 1, 1942.

Section 2. That for a period of five years from and including January 1, 1942, the term "liquid fuel" or "fuel" as defined in section 2010 Revised Laws of Hawaii 1935, shall not include alcohol manufactured in the Territory of Hawaii for use as fuel in internal combustion engines, and such alcohol fuel shall be exempt from all taxes thereunder imposed and such taxes as may be imposed under any other tax law for said period of five years.

Section 3. This Joint Resolution shall take effect upon approval.

(Approved October 13, 1941.) **H. J. R. 5.**

J. R. 3

Joint Resolution Requesting and Directing the Treasurer of the Territory of Hawaii to Consent to the Refunding of Certain Bonds of the County of Hawaii Now Deposited in the Sinking Fund of the Territory of Hawaii.

WHEREAS, the Legislature of the Territory of Hawaii in its regular session of 1941 by Act 76 provided that the bonds of the various counties of the territory could be refunded at any time by any county if, among other conditions, the holders would consent to such refunding, even though such county bonds were not matured, callable or redeemable on the face thereof at the time of the proposed refunding; and

WHEREAS, the County of Hawaii in 1931 issued its public improvement bonds in the amount of \$400,000.00 at 5% interest, which said bonds were purchased by the treasurer of the Territory of Hawaii for the sinking fund of the territory; and

WHEREAS, there are now in the possession of the treasurer of the Territory of Hawaii, public improvement bonds of the County of Hawaii of said 1931 issue to the amount of \$300,000.00; and

WHEREAS, said interest rate of 5% on said bonds is much higher than the present normal interest rate on such securities; and

WHEREAS, the said bonds do not mature until 1954, and by the provisions thereof are not presently callable or redeemable by the County of Hawaii; now, therefore,

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. That the treasurer of the Territory of Hawaii be and he is hereby requested and directed to consent to the refunding by the County of Hawaii, in accordance with the provisions of Act 76, Regular Session Laws 1941, of the 1931 issue of the public improvement bonds of the County of Hawaii now held by the treasurer of the Territory of Hawaii in the sinking fund of the territory; provided, however, that the interest rate offered by the County of Hawaii on its refunding bonds shall be not less than 3½%.

Section 2. This Joint Resolution shall take effect upon its approval.

(Approved October 14, 1941.) **H. J. R. 3.**

J. R. 4

Joint Resolution Creating a Joint Legislative Holdover Investigating Committee; Providing for Its Composition, Its Powers, Duties, and Functions; and Appropriating Funds Therefor.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. There is hereby created a joint holdover committee of the legislature, to function during, and after, the adjournment of the present session, to be composed of the President of the Senate and five senators, to be appointed by the President of the Senate, of whom two shall be from the City and County of Honolulu and one from each of the other counties, and the Speaker of the House of Representatives and five members of the House of Representatives, to be appointed by the Speaker of the House, of whom two shall be from the City and County of Honolulu and one from each of the other counties, to be known as the "Joint Holdover Investigating Committee". Said committee shall appoint a chairman, or in his absence an acting chairman, and shall have power to employ such clerical and other assistance, at such compensation, as may be authorized by the committee. The members of said committee shall serve without compensation, but shall be reimbursed their actual traveling and other reasonable expenses incurred in the performance of their duties under this Joint Resolution.

Section 2. Said committee is authorized and empowered and it shall be its duty, to investigate and make a complete survey of harbor development throughout the Territory and of the foreign language schools in the Territory of Hawaii to determine the effect of the same upon the American ideals and patriotism of the pupils and whether such schools should be regulated or dealt with other than as at present and of such other matters as, in the discretion of said committee, it believes should be reported to the legislature at its next session.

In making said investigations, said committee shall be and it hereby is authorized: (a) to hold such hearings as it may deem advisable or necessary; (b) to take testimony and other evidence and secure other pertinent data; and (c) to subpoena witnesses and require the production of books, documents and other evidence.

Said committee shall report its findings and recommendations, investigated hereunder, at the next session of the legislature of this Territory. In all hearings or investigations conducted by

the committee, each member of such committee shall have the same power respecting the administering of oaths, compelling the attendance of witnesses, the production of documentary evidence, and examining or causing to be examined witnesses, as are possessed by a circuit judge at chambers, and may take depositions and certify to official acts. The circuit court of any circuit on application by any member of said committee shall have the power to enforce by proper proceedings the attendance and testimony of any witness so subpoenaed.

Section 3. The sum of ten thousand dollars (\$10,000.00) is hereby appropriated out of the general fund of the Territory for expenditure for any of the purposes of this Joint Resolution, to be expended on vouchers signed by the chairman or acting chairman of said committee.

Section 4. This Joint Resolution shall take effect upon its approval.

(Approved October 21, 1941.) S. J. R. 3.

J. R. 5

Joint Resolution Creating a Joint Legislative Holdover Committee to Investigate and Report on the Employees' Retirement System of the Territory of Hawaii; Providing for Its Powers, Duties, and Functions; and Appropriating Funds Therefor.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. There is hereby created a joint holdover committee of the legislature, to function during, and after, the adjournment of the present session, to be composed of five senators, one from the first, second and fourth senatorial districts, respectively, and two from the third senatorial district, to be appointed by the president of the senate, and five members of the house of representatives, to be appointed by the speaker of the house, to be known as the "retirement system investigating committee." Said committee shall appoint a chairman, or in his absence an acting chairman, and shall have power to employ such clerical and other assistance, at such compensation, as may be authorized by the committee. The members of said committee shall serve without compensation, but shall be reimbursed their actual trav-

eling and other reasonable expenses incurred in the performance of their duties under this Joint Resolution.

Section 2. Said committee is authorized and empowered, and it shall be its duty, to investigate and make a complete survey of the employees' retirement system of the Territory of Hawaii and all of the activities, functions, and operations of said system, to determine whether or not the laws pertaining to said system are adequate, whether said system can be improved, whether said system should be modified or altered or superseded by any other system, and whether any changes should be made with respect to said laws or said system.

In making said investigations, said committee shall be and it hereby is authorized: (a) to hold such hearings as it may deem advisable or necessary; (b) to take testimony and other evidence and secure other pertinent data; (c) to subpoena witnesses and require the production of books, documents, and other evidence; (d) to secure the services of an outstanding expert in matters relating to pension and retirement systems, who shall make a comprehensive survey and analysis of said entire system, and make his reports to said committee concerning the matters hereinabove referred to said committee for investigation. Such expert shall be a person who has no connection whatsoever, directly or indirectly, with the employees' retirement system of the Territory of Hawaii, or with any insurance company selling group annuities.

Said committee shall report its findings and recommendations, together with the findings and recommendations of said expert, with respect to any of the matters herein required to be investigated, at the next regular session of the legislature of this Territory. In all hearings or investigations conducted by the committee, each member of such committee shall have the same power respecting the administering of oaths, compelling the attendance of witnesses, the production of documentary evidence, and examining or causing to be examined witnesses, as are possessed by circuit judge at chambers, and may take depositions and certify to official acts. The circuit court of any circuit on application by any member of said committee shall have the power to enforce by proper proceedings the attendance and testimony of any witness so subpoenaed.

Section 3. The sum of five thousand dollars (\$5,000.00) is hereby appropriated out of the general fund of the Territory for expenditure for any of the purposes of this Joint Resolution, to

be expended on vouchers signed by the chairman or acting chairman of said committee.

Section 4. This Joint Resolution shall take effect upon its approval.

(Approved October 23, 1941.) **S. J. R. 1.**

J. R. 6

Joint Resolution Authorizing and Directing the Personnel Classification Board of the County of Hawaii, or the Board of Supervisors of the County of Hawaii, as the Case May Be, to Use and Apply the Compensation Paid Employees on June 30, 1941 as the Base for the Making of Adjustments as Provided in Act 55, Special Session Laws of Hawaii 1941.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Any of the provisions of Act 55 of the Special Session Laws of Hawaii 1941, or of any other law, to the contrary notwithstanding, the personnel classification board of the county of Hawaii created by said Act 55, or the board of supervisors of the county of Hawaii, as the case may be, is hereby authorized and directed, in determining initially the compensation which shall be paid employees occupying positions covered by said Act 55, to use and apply the compensation paid for each position on June 30, 1941 as the base for making the adjustments provided in said Act 55.

Section 2. This Joint Resolution shall take effect on November 1, 1941.

(Approved November 4, 1941.) **S. J. R. 8.**

J. R. 7

Joint Resolution Authorizing the Commissioners of Public Instruction, with the Approval of the Governor, to Transfer Sufficient Moneys from the General Administration Fund or the Teachers' Salaries Fund of the Department of Public Instruction to Cover the Necessary Cost of Publishing Volumes I and II of the Community Survey of Education, the Salary of a Secretary for the Business Manager and Director of Personnel, and Travel Allowances of the Business Manager and Director of Personnel of the Department of Public Instruction.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The commissioners of public instruction are hereby authorized, with the approval of the governor, to transfer sufficient moneys from the general administration fund or the teachers' salaries fund of the department of public instruction to cover the necessary cost of publishing volumes I and II of the Community Survey of Education, the salary of a secretary for the business manager and director of personnel, and travel allowances of the business manager and director of personnel of the department of public instruction.

Section 2. This Joint Resolution shall take effect upon its approval.

(Approved November 7, 1941.) S. J. R. 4.

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